

1 **ARTICLE 101 - NAME, OBJECTIVES, TERRITORY AND JURISDICTION**

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3 **101.1 NAME** - The name of the corporation shall be North Carolina Swimming, Inc. (NCS).

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5 **101.2 OBJECTIVES** - The objectives and primary purpose of NCS shall be the education,
6 instruction and training of individuals to develop and improve their capabilities in the sport of
7 swimming. NCS shall promote swimming for the benefit of swimmers of all ages and abilities, in
8 accordance with the standards, rules, regulations, policies and procedures of FINA, USA
9 Swimming, and NCS and its Articles of Incorporation.

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11 **101.3 GEOGRAPHIC TERRITORY** - The geographic Territory of NCS is the State of North
12 Carolina except the Counties of Camden, Currituck, and Pasquotank.

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14 **101.4 JURISDICTION** - NCS shall have jurisdiction over the sport of swimming as delegated to it
15 as a Local Swimming Committee by USA Swimming to conduct swimming programs consistent
16 with NCS objectives and those of USA Swimming and to sanction, approve, observe and oversee
17 competitive swimming events within the Territory and to conduct competitive swimming events
18 within the Territory, its Section and its Zone as those terms are defined in **Sections 703.3 and**
19 **704.2** of Part Seven of the USA Swimming Code. NCS shall discharge faithfully its duties and
20 obligations as a Local Swimming Committee of USA Swimming in accordance with these Bylaws,
21 the USA Swimming Code and all applicable policies and procedures.

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23 **ARTICLE 102 – MEMBERSHIP**

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25 **102.1 MEMBERS** - The membership of NCS shall consist of the following:

26 **.1 Group Members** - Group Members are organizations operating in the Territory which have,
27 upon application, been granted membership in USA Swimming and NCS and paid the fees
28 established by USA Swimming and NCS pursuant to **Article 103**. An organization may be denied
29 membership by the Membership/Registration Coordinator or the Board of Directors for failure to
30 satisfy the criteria for membership or for any reason for which a Group Membership could be
31 terminated. Any denial of membership may be appealed to the Board of Review. An organization's
32 status as a Group Member is subject to its continued satisfaction of the criteria for membership and
33 compliance with its responsibilities under these Bylaws, the USA Swimming Code, the rules,
34 regulations, policies, procedures and codes of conduct and ethics of NCS and USA Swimming and
35 may be terminated by a decision of the Board of Review or the National Board of Review. Except
36 for Affiliated Group Members, Group Members in good standing shall be entitled to participate in
37 the program of swimming conducted by NCS, and competitions sanctioned or approved by USA
38 Swimming USA Swimming, in accordance with **Section 109**.

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40 **A. Club Members** - A Club Member is an organization which is in good standing as a
41 Group Member of NCS and USA Swimming USA Swimming, has athletes and coaches,
42 and participates in the sport of swimming. All athletes and coaches of the organization
43 must be Individual Members in good standing of NCS and USA Swimming.

44 **B. Affiliated Group Members** - An Affiliated Group Member is an organization which
45 supports the sport of swimming and the objectives and programs of NCS and USA
46 Swimming, which is in good standing as a Group Member of NCS and USA Swimming,
47 but which does not have athletes and coaches who all are Individual Members of NCS
48 and USA Swimming.

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50 **.2 Individual Members** - Individual Members are individuals involved in the sport of swimming in
51 the Territory who have, upon registration, been granted membership in USA Swimming and NCS
52 and paid the dues established by USA Swimming and NCS pursuant to **Article 103**. An individual
53 may be denied membership by the Membership/Registration Coordinator or by the Board of
54 Directors for failure to satisfy the criteria for membership or for any reason for which an Individual
55 Membership could be terminated. Any denial of membership may be appealed to the Board of
56 Review. An individual's status as an Individual Member is subject to the Individual Member's
57 continued satisfaction of the criteria for membership and compliance with the individual's
58 responsibilities under these Bylaws, the USA Swimming Code, the rules, regulations, policies,
59 procedures and codes of conduct and ethics of NCS and USA Swimming and may be terminated

60 by a decision of the Board of Review or the National Board of Review. Individual Members in good
61 standing shall be entitled to participate in the program of swimming conducted by NCS, and
62 competitions sanctioned or approved by USA Swimming, in accordance with Section 109.1.

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64 **A. Athlete Members** - An Athlete Member is an individual who participates or
65 competes in the sport of swimming and is in good standing as an Individual Member of
66 NCS and USA Swimming.

67 **B. Coach Members** - A Coach Member is an individual, whether or not affiliated with a
68 Group Member, who has satisfactorily completed all safety and other training required
69 by NCS and/or USA Swimming and who is in good standing as an Individual Member of
70 NCS and USA Swimming. Any individual desiring to act in any coaching capacity at any
71 competition sanctioned by USA Swimming must be a Coach Member in good standing
72 of NCS and USA Swimming.

73 **C. Active Individual Members** - An Active Individual Member is an individual other
74 than a Coach Member or an Athlete Member who is a trainer, manager, official, meet
75 director, marshal, Board Member, At-Large House Member, officer, coordinator or
76 committee chairman or committee member of NCS or a Group Member
77 Representative or alternate and any other individual desiring to participate in the sport
78 of swimming and who is in good standing as an Individual Member of USA Swimming
79 and NCS.

80 **D. Life Members** - A Life Member is an individual who is a life member of USA
81 Swimming and who resides, formerly resided or participated in the sport of swimming
82 in the Territory and who is in good standing as a member of NCS and USA Swimming.

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84 Membership A Privilege Not A Right - Membership in NCS and USA Swimming is a privilege and
85 shall not be interpreted as a right. Membership (including a Life Membership) may be terminated
86 by the Board of Review or the National Board of Review for any violation of a member's
87 responsibilities under **Section 102.2**, for any of the reasons set forth in **Section 110.4.7C** or for
88 any other reason determined by the Board of Review or National Board of Review to be in the
89 best interests of the sport of swimming, USA Swimming or NCS.

91 **102.2 MEMBERS' RESPONSIBILITIES**

92 **.1 Compliance** - Each Group and Individual Member shall abide by the codes of conduct and
93 ethics, policies, procedures, rules and regulations adopted by USA Swimming and NCS, including
94 its obligations and responsibilities set forth in these Bylaws. Each Group and Individual Member
95 shall not take or allow to be taken, any action, or conspire with or instigate any other person to take
96 or allow to be taken, any action which could bring the sport of swimming, NCS or USA Swimming
97 into disrepute. By applying for and accepting membership in NCS and USA Swimming, each
98 Individual Member agrees to so abide and represents, except to the extent disclosed to NCS and
99 USA Swimming, that he or she has never been convicted of a crime involving sexual misconduct,
100 child abuse, violation of a law specifically designed to protect minors, or similar offenses, or to have
101 been found by a Board of Review or the National Board of Review to have committed actions which
102 would be the basis for a conviction and that she or he has never acted in a manner which might
103 bring into disrepute NCS, USA Swimming or the sport of swimming.

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105 **.2 Responsibility for Infractions** - A Group Member may be held responsible for infractions of
106 the policies, procedures, rules, regulations or codes of conduct or ethics adopted by USA
107 Swimming or NCS, including its responsibilities as set forth in these Bylaws. Infractions of a Group
108 Member include those committed or allowed to happen by its members, representatives, officials
109 or coaches or by athletes who are competing as representatives of the Group Member or who are
110 competing with the Group Member as unattached swimmers. Also included are infractions
111 committed or allowed to happen by a person instigated by the Group Member or with whom the
112 Group Member through any of those individuals conspired. Any Individual Member may be held
113 responsible for any infractions committed or that were allowed to happen by the Individual
114 Member. Also included are infractions committed or allowed to happen by a person instigated by
115 the Individual Member or with whom the Individual Member conspired.

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117 **.3 Club Safety Coordinator** - Each Club Member shall appoint an Individual Member to be a Club
118 Safety Coordinator. The Club Safety Coordinator shall be responsible for disseminating safety
119 education information received from USA Swimming and NCS to the Club Member's athletes,

120 coaches and other members and shall make recommendations to the Club Member concerning
121 safety policy and its implementation. The Club Safety Coordinator shall make any reports
122 requested by NCS Safety Coordinator.

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124 **ARTICLE 103 DUES AND FEES**

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126 **103.1 CLUB MEMBERS** - Every Club Member shall pay an annual fee, consisting of a national
127 club fee established by USA Swimming and a local club fee established by NCS, together with any
128 other charges, fees, etc. as may be established by NCS.

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130 **103.2 AFFILIATED GROUP MEMBERS** - The Board of Directors shall establish the
131 annual membership fees and any other charges, fees, etc., for Affiliated Group
132 Members.

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134 **103.3 ATHLETES** - Each Athlete Member shall pay an annual fee consisting of a
135 national fee established by USA Swimming and a local fee established by NCS.

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137 **103.4 COACHES** - Each Coach Member shall pay an annual fee consisting of a national fee
138 established by USA Swimming and a local fee established by NCS, together with any other
139 charges, fees, etc. as may be established by NCS.

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141 **103.5 ACTIVE INDIVIDUAL MEMBERS** - Each Active Individual Member shall pay an annual fee
142 consisting of a national fee established by USA Swimming and a local fee established by NCS,
143 together with any other charges, fees, etc. as may be established by NCS.

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145 **103.6 LIFE MEMBERS** - The Board of Directors shall establish the annual or other membership
146 fees, if any, and any other charges, fees, etc., for Life Members.

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148 **103.7 SANCTION, APPROVAL AND OTHER FEES**

149 **.1 Sanction and Approval Fees** - The Board of Directors shall establish reasonable fees,
150 procedures, and documentation required of an applicant for a sanction, or approval for, or
151 observation of, a swimming competition to be conducted within the Territory.

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153 **.2 Service Charges** - In addition to, or in place of, a sanction or approval fee, the Board of
154 Directors may establish a reasonable service charge consistent with the nature of the event. For
155 example, the service charge may be a flat amount, an amount related to the number of events
156 swum, the number of individual swims, the number of athletes entered, the cost of equipment and
157 pool time provided, a percentage of receipts or profits or a combination of one or more of these or
158 other bases.

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160 **.3 Payment** - Each applicant for a sanction, approval or observation shall submit with its
161 application the fees and any service charges specified by NCS. If any of the sanction or approval
162 fees or service charges are due at a time following the submission for sanction or approval, the
163 applicant shall promptly pay those fees or service charges to NCS when due in accordance with
164 NCS's fee schedule.

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166 **103.8 FAILURE TO PAY**

167 **.1 Group, Coach and Active Individual Member Obligations** - The failure of a Group Member,
168 Coach Member or Active Individual Member to pay dues, fees, service charges, fines or penalties
169 imposed by NCS or USA Swimming, within the time prescribed, as evidenced by a final decision
170 of the Board of Review or the National Board of Review or by a court of law, shall preclude the
171 delinquent member from (a) participating in events sanctioned or approved by USA Swimming, (b)
172 participating in any capacity in the affairs of USA Swimming, NCS or any other LSC or (c) serving
173 as a Club Safety Coordinator, Group Member Representative, coach, manager, official, trainer or
174 in any other capacity with any Club Member or with any group member of any other LSC.

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176 **.2 Athlete Member Obligations** - The failure of an Athlete Member to satisfy any financial

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obligations to USA Swimming, NCS or their former LSC, within the time prescribed, as evidenced by a final decision of the Board of Review, the National Board of Review or by a court of law, shall preclude the delinquent member from (a) competing in any competition sanctioned by USA Swimming, (b) obtaining an OVC or other reportable time achieved in events swum at any ~~USS~~ USA Swimming sanctioned, approved or observed meet, (c) participating in any capacity in the affairs of USA Swimming, NCS or any other LSC or (d) practicing, exercising or otherwise participating in the activities of any Group Member or any group member of any other LSC.

.3 Club/Individual Obligations - If a Club Member has secured a final court judgment or final Board of Review or National Board of Review decision against an Individual Member for nonpayment of financial obligations owed to the Club Member, then until the decision or judgment is satisfied, the Individual Member shall not (a) compete in any competition sanctioned by USA Swimming, (b) report times from events swum at any USA Swimming approved or observed meet, (c) participate in any capacity in the affairs of USA Swimming, NCS or any other LSC or (d) practice, exercise or otherwise participate in the activities of any Group Member or any group member of any other LSC.

.4 Individual/Club Obligations - If an Individual Member has secured a final court judgment or a final Board of Review or National Board of Review decision against a Club Member for nonpayment of financial obligations (such as a refund of training fees) to the Individual Member, then until the decision or judgment is satisfied, the delinquent or offending Club Member shall be precluded from (a) participating in events sanctioned or approved by USA Swimming and (b) participating in any capacity in the affairs of USA Swimming, NCS or any other LSC, including being represented in the House of Delegates by its Group Member Representative.

.5 Continued Failure to Pay; Termination of Membership - Continued failure to pay, within a reasonable period of time, as determined by the Board of Directors, the House of Delegates, the Board of Review or the National Board of Review shall be cause for termination of membership.

.6 Late Fees -Coach Members and Group Members who engage in any NCS/ USA Swimming activity including practice and competition after their membership has lapsed shall be subject to a late fee of \$100.00 that must be paid before membership can be renewed.

ARTICLE 104 HOUSE OF DELEGATES

104.1 MEMBERS - The House of Delegates of NCS shall consist of the Group Member Representatives, the Athlete Representatives, the Coach Representatives, the Board Members designated in **Section 105.1**, and the At-Large House Members.

.1 Group Member Representatives - Each Group Member in good standing shall appoint from its membership Group Member Representatives up to the number of votes to which it is entitled (See **Section 104.3.1**) and one or more alternates for each. The names of the voting Group Member Representatives shall be submitted to the NCS Secretary no later than the start of each House of Delegates meeting for which representatives are present

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

.3 Athlete Representatives - Two (2) Athlete Representatives shall be elected, one each year for a two-year term, or until their respective successors are elected. At the time of election, the Athlete Representative must (a) be an Athlete Member in good standing; (b) be at least sixteen (16) years of age or at least a sophomore in high school; (c) be currently competing, or have competed during the three (3) immediately preceding years, in the program of swimming conducted by NCS or another LSC; and (d) reside in the Territory and expect to reside therein throughout at least the first half of the term. The election of the Athlete Representatives shall be conducted

235 annually during the summer months at a meet designated by the Board of Directors. The balloting
236 shall take place at a meeting called for that purpose by the Senior Athlete Representative or the
237 Athletes Committee, or failing that, at a time and in a manner designated by the Board of Directors.
238 The Athlete Representatives elected shall be determined by a majority of the Athlete Members in
239 good standing present and voting who are thirteen (13) years of age or older.

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241 **.4 Coach Representatives** - Two Coach Representatives shall be elected, one each year for a
242 two-year term, or until a successor is elected. The election of the Coach Representative shall be
243 conducted during NCS long course age group swimming championship, at a meeting timely called
244 by the Senior Coach Representative, the Coaches Committee or the Board of Directors, and
245 determined by a majority of the Coach Members in good standing present and voting or, failing
246 that, at a time and place and in a manner designated by the Board of Directors.

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248 **104.2 ELIGIBILITY** - Only Individual Members in good standing shall be eligible to be elected or
249 appointed members of, to be heard at or to vote at the House of Delegates in any capacity.
250 Members of the House of Delegates must maintain their status as Individual Members in good
251 standing throughout their terms of office.

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253 **104.3 VOICE AND VOTING RIGHTS OF MEMBERS** - The voice and voting rights of members of
254 the House of Delegates and of Individual Members shall be as follows:

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256 **.1 Group Member Representatives** - Each of the Group Member Representatives shall have
257 voice in meetings of the House of Delegates. Each Group Member having thirty (30) or more
258 registered athletes shall be entitled to three (3) votes. Those having one (1) to twenty-nine (29)
259 shall have two (2) votes. Group Members with no registered athletes shall have one (1) vote. Each
260 Group Member Representative present may cast one vote up to the maximum number of votes
261 allowed to a designated group member. A person may represent no more than one group
262 member.

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264 **.2 Board Members, the Athlete Representatives, the Coach Representatives and At-Large**
265 **House Members** - Each of the Board Members, the Athlete Representatives, the Coach
266 Representatives and the At-Large House Members shall have both voice and one vote in
267 meetings of the House of Delegates.

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269 **.3 Individual Members** - Individual Members who are not members of the House of Delegates may
270 attend open meetings of the House of Delegates and its committees and be heard at the discretion
271 of the presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual
272 Members shall have no vote in meetings of the House of Delegates.

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274 **104.4 DUTIES AND POWERS** - The House of Delegates shall oversee the management of the
275 affairs of NCS and the establishment of policies, procedures and programs. In addition to the duties
276 and powers prescribed in the USA Swimming Code or elsewhere in these Bylaws, the House of
277 Delegates shall:

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279 .1 Elect the officers, regular and alternate members of the Board of Review and the committee
280 chairmen and coordinators listed in **Section 106.1** in accordance with **Sections 106.2** through
281 **106.6**;

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283 .2 Elect alternates to the USS House of Delegates in accordance with **Section 502.2** of the
284 USA Swimming Code (see also **Section 106.7.13B**);

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286 .3 Elect the members of the Nominating Committee;

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288 .4 Review, modify and adopt the annual budget of NCS recommended by the Board of
289 Directors;

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291 .5 Call regular and special meetings of the House of Delegates;

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.6 Ratify or prospectively modify or rescind policy and program established by the Board of Directors, except any action or authorization by the Board of Directors with respect to contracts or upon which any person may have relied shall not be modified or rescinded;

.7 Establish joint administrative committees, or undertake joint activities with other sports organizations where deemed helpful or necessary by NCS;

.8 Establish by resolution or the NCS 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 NCS 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 NCS in accordance with **Section 111.3**; and

.10 Remove from office any Board Members, members of the Board of Review, 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 110.4.7C**. 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 110.6.1** 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 110.

104.5 ANNUAL AND REGULAR MEETINGS - The annual meeting of the House of Delegates of NCS shall be held in the Fall 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.

104.6 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.

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

104.8 NOMINATING COMMITTEE -

.1 Members of Nominating Committee; Election - The Nominating Committee shall comprise not fewer than five (5) Individual Members elected annually by the House of Delegates, or the Board of Directors if the House of Delegates does not act in a timely fashion, to serve until their successors are elected. A number greater than five (5) may be designated from time to time by either the House of Delegates or the Nominating Committee. Each Nominating Committee member shall be a member of the House of Delegates and no more than two (two-fifths if there are more than five (5) members of the Nominating Committee) shall be Board Members. **Section 106.6.3** shall apply to members of the Nominating Committee. If any member of the Nominating Committee resigns or otherwise becomes unable to participate in its affairs, the General Chairman, with the advice and consent of the Board of Directors, shall appoint a successor to serve until the next meeting of the House of Delegates.

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.2 Chairman Elected by Nominating Committee - The Chairman of the Nominating Committee shall be elected annually by a majority vote of the members of the Nominating Committee present at a meeting called promptly after the members are elected or appointed.

.3 Duties of Nominating Committee - A slate of candidates for election as the officers, committee chairmen and coordinators specified in **Section 106.1** and the regular and alternate members of the Board of Review to be elected at the next annual meeting shall be prepared by the Nominating Committee. The Nominating Committee may in its discretion nominate a slate of one person for each position to be filled or may nominate more than one candidate for one or more of the positions. The Nominating Committee shall also nominate a slate of candidates for the Nominating Committee to be elected at the last regularly scheduled meeting before the next annual meeting of the House of Delegates.

.4 Publication of Nominations - Nominations by the Nominating Committee shall be published by distributing a slate of candidates together with the positions for which they have been nominated to each member of the House of Delegates and to each Group Member not less than twenty (20) calendar days prior to the election. This notice may be combined with the notice of the meeting pursuant to **Section 104.15.1** where convenient. See **Section 117.1.5** for the methods which may be used for the distribution.

.5 Additional Nominations - Additional nominations may be made from the floor of the House of Delegates by any member of the House of Delegates eligible to vote.

.6 Meetings and Notices - Meetings of the Nominating Committee shall take place at a site within the Territory when called by the Chairman or any three members of the Committee with a minimum of six (6) days notice required. Pertinent provisions of **Sections 107.5** through **107.11** and **Section 117.1.5** also shall apply to the Nominating Committee's meetings and notices.

.7 Quorum - A quorum for any meeting of the Nominating Committee shall consist of not fewer than four (4) members. The committee shall act by a majority vote of its members voting in any meeting at which a quorum is present.

104.9 MEETINGS OPEN; EXECUTIVE SESSIONS

.1 House of Delegates - House of Delegates meetings shall be open to all members of NCS and USA Swimming. Issues pertaining to personnel, disciplinary action, legal, tax or similar affairs of NCS shall be deliberated and decided in a closed executive session which only House of Delegates members may attend. By a majority vote on a motion of a question of privilege, the House of Delegates may decide to go into executive session on any matter deserving of confidential treatment or of personal concern to any member of the House.

.2 House of Delegates Committees - All meetings and deliberations of the Nominating Committee shall be conducted in executive (closed) session. Meetings of all other committees established by the House of Delegates shall be open to all members of NCS and USA Swimming unless otherwise provided by the House of Delegates resolution creating the committee or by a vote of the committee as provided by the rules of the Parliamentary Authority.

104.10 QUORUM - A quorum of the House of Delegates shall consist of those members present and voting.

104.11 VOTING - Except as otherwise provided in these Bylaws or the Parliamentary Authority, all motions, orders and other propositions coming before the House of Delegates shall be determined by a majority vote. A motion or order calling for the removal of a member of the Board of Review pursuant to **Section 104.4.10**, shall be determined by a two-thirds vote after at least thirty (30) days notice. See also **Section 111.3** regarding amendment of these Bylaws.

104.12 PROXY VOTE - Voting by proxy in any meeting of the House of Delegates shall

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104.13 MAIL VOTE - Any action which may be taken at any regular or special meeting of the House of Delegates, except elections, removals of Board Members, members of the Board of Review, elected committee chairmen or coordinators and amendments of these Bylaws, may be taken without a meeting. If an action is taken without a meeting, the Secretary, by first class mail, postage prepaid, shall distribute a written ballot to every member of the House of Delegates entitled to vote on the matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval, and provide a reasonable time (but in no event less than the period specified in **Section 104.15.1**) within which to return the ballot to the Secretary. Action by written ballot shall be valid only when the number of votes cast in favor of the proposed action within the time period specified constitutes a majority of the votes entitled to be cast.

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

Roll Call

Reading, correction and adoption of minutes of previous meeting

Reports of officers

Reports of committees and coordinators

Presentation and approval of the annual budget

Presentation and approval of the annual audit pursuant to **Section 108.5**, when applicable

Unfinished (old) business Elections

New business

Resolutions and orders

Adjournment

104.15 NOTICES -

.1 Time - Not less than twenty (20) days written notice shall be given to each member of the House of Delegates and each Group Member for any annual, regular or special meeting of the House of Delegates. See **Section 117.1.5** for the various permitted forms of notice.

.2 Information - The notice of a meeting shall contain the time, date and site. For special meetings of the House of Delegates, the expected purpose (which may be general) of the meeting shall be stated. If an expected purpose is the amendment of the Bylaws, a copy of the proposed amendment shall be included in the notice. Failure to have included in the notice any germane amendments subsequently adopted by the House of Delegates at the noticed meeting shall not be the basis for any claim that the amendments as so adopted are invalid.

ARTICLE 105 - BOARD OF DIRECTORS

105.1 MEMBERS - The Board of Directors shall consist of the following officers, committee chairmen, coordinators and representatives of NCS, together with those additional members designated in **Section 105.2**:

.1 General Chairman

.2 Administrative Vice-Chairman

.3 Senior Vice-Chairman

.4 Age Group Vice-Chairman

.5 Finance Vice-Chairman

.6 Secretary

.7 Treasurer

.8 The Senior Coach Representative

.9 The Athlete Representatives

.10 Safety Coordinator

.11 Technical Planning Chairman

.12 Membership/Registration Coordinator

.13 Officials Chairman

466 .14 Marketing Chairman
467 .15 Legislation Chairman

468 **105.2 EX-OFFICIO MEMBERS** - The following persons shall be ex-officio members of the
469 Board of Directors during the time period in which they meet the defined status:
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471
472 **.1 The Immediate Past General Chairman of NCS** for one term after leaving office, if an
473 Individual Member in good standing;

474
475 **.2 The Board of Review Chairman;**

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477 **.3 Members of the USA Swimming House of Delegates who are Individual Members in good**
478 **standing;** and

479
480 **.4 USA Swimming Committee Chairmen who are Individual Members in good standing.**

481
482 **105.3 LIMITATIONS** - No more than three (3) members or coaches of any Club Member shall
483 serve on the Board of Directors at any time. This limitation shall be applied separately as to
484 Athlete Members and other Individual Members. It shall not apply to Ex-officio Members.

485
486 **105.4 VOICE AND VOTING RIGHTS OF BOARD MEMBERS** - The voice and voting rights of
487 Board Members and Individual Members shall be as follows:

488
489 **.1 Board Members** - Each Board Member shall have both voice and vote in meetings of the
490 Board of Directors and its committees.

491
492 **.2 Individual Members** - Individual Members who are not Board Members may attend open
493 meetings of the Board of Directors and its committees and be heard in the discretion of the
494 presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual
495 Members shall have no vote in meetings of the Board of Directors or its committees.

496
497 **105.5 DUTIES AND POWERS** - The Board of Directors shall act for NCS and the House of
498 Delegates during the intervals between meetings of the House of Delegates, subject to the exercise
499 by the House of Delegates of its powers of ratification or prospective modification or rescission,
500 except that it shall not remove a Board Member, a Board of Review member or other person
501 elected by the House of Delegates or amend these Bylaws. In addition to the powers and duties
502 prescribed in the USA Swimming Code or elsewhere in these Bylaws, the Board of Directors shall
503 have the power and it shall be its duty to:

504
505 **.1** Establish and direct policies, procedures and programs for NCS;

506
507 **.2** Oversee the conduct by the officers and staff of NCS of the day-to-day management of the
508 affairs of NCS;

509 **.3** Provide advice and consent to appointments proposed by the General Chairman that
510 require advice and consent under these Bylaws or the NCS Policies and Procedures Manual;

511
512 **.4** Cause the preparation and presentation to the House of Delegates of the annual budget of
513 NCS and make a recommendation to the House of Delegates concerning the approval or
514 disapproval thereof;

515
516 **.5** Receive presentation of the annual audit report pursuant to **Section 108.5** and make a
517 recommendation to the House of Delegates concerning the approval or disapproval thereof;

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519 **.6** Call regular or special meetings of the Board of Directors or the House of Delegates;

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521 **.7** Admit eligible prospective Group Members;

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.8 Retain such independent contractors and employ such persons as the Board shall determine are necessary or appropriate to conduct the affairs of NCS;

.9 Appoint other officers, agents, committees or coordinators, to hold office for the terms specified. These appointees shall have the authority and perform the duties as provided in these Bylaws, the NCS Policies and Procedures Manual or as may be provided in the resolutions appointing them, including any powers of the Board of Directors as may be specified, except as may be inconsistent with any other provision of these Bylaws. To the extent not provided elsewhere in these Bylaws, the Board of Directors may delegate to any officer, agent, committee or coordinator the power to appoint any such subordinate officers, agents committees, or coordinators and to prescribe their respective terms of office, authorities and duties; and

.10 Remove from office any officers, committee chairmen, committee members, or coordinators of NCS who were not elected by the House of Delegates and 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 110.4.7C**. No officer, committee chairman, or coordinator may be removed without receiving the thirty (30) days written notice specifying the alleged deficiency in the performance of the member's responsibilities under these Bylaws, the member's official duties or other reasons. All notices and proceedings under this section shall be prepared, served and processed utilizing the procedures for a formal hearing pursuant to **Section 110.6.1** to the extent applicable. Should the officer, committee chairman, committee member, or coordinator contest the alleged deficiency or other reason set forth in the notice, the Board of Directors shall hold a hearing at which the member shall have the same procedural rights as if the hearing were to be conducted by the Board of Review pursuant to **Article 110**.

105.6 EXECUTIVE COMMITTEE - This section reserved for future use.

105.7 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS - Board of Directors meetings shall be open to all members of NCS and USA Swimming. Matters relating to personnel, disciplinary action, legal, taxation or similar affairs shall be deliberated and decided in a closed executive session which only Board Members, respectively, are entitled to attend. By a majority vote on a motion of a question of privilege the Board of Directors may decide to go into executive session on any matter deserving of confidential treatment or of personal concern to any member of the Board of Directors.

105.8 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT - Members of the Board of Directors may participate in meetings of the Board of Directors through conference telephone or similar equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

105.9 REGULAR MEETINGS - Regular meetings of the Board of Directors shall be held in accordance with a schedule adopted by the Board of Directors.

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

105.11 QUORUM - A quorum of the Board of Directors shall consist of a majority of the members.

105.12 VOTING - Except as otherwise provided in these Bylaws or the Parliamentary Authority, all motions, orders and other propositions coming before the Board of Directors shall be determined by a majority vote. A motion, order or other proposal the affect of which is to override policy or program established by the House of Delegates shall be determined by a two-thirds vote after at least fourteen (14) days notice.

105.13 PROXY VOTE - Voting by proxy in any meeting of the Board of Directors shall not be

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permitted.

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

105.15 MAIL VOTE - Any action which may be taken at any regular or special meeting of the Board of Directors, except elections, advice and consent to the General Chairman's appointments, or removals of officers, committee chairmen and members, may be taken without a meeting. If an action is to be taken without a meeting, the Secretary, by first class mail, postage prepaid, shall distribute a written ballot to every Board Member entitled to vote on the matter. The ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval, and provide a reasonable time (but in no event less than the period specified in **Section 105.16**) within which to return the ballot to the Secretary. Action by written ballot shall be valid only when the number of votes cast in favor of the proposed action within the time period specified constitutes a majority of the votes entitled to be cast.

105.16 NOTICES -

.1 Time - Not less than fourteen (14) days notice shall be given to each Board Member for any annual, regular or special meeting of the Board of Directors. Separate notices need not be given for regular meetings that are designated in these Bylaws or otherwise scheduled and noticed well in advance. (See **Section 117.1.5** for the various permitted forms of notice and the consequences thereof.)

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

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

- Roll Call
- Reading, correction and adoption of minutes
- Reports of officers
- Reports of committees and coordinators
- Presentation of the annual budget and adoption of recommendation to the House of Delegates
- Presentation of the annual audit report pursuant to **Section 108.5** and adoption of its recommendation to the House of Delegates
- Advice and Consent to Appointments
- Unfinished (old) business
- New business
- Approval of applications for Group Membership and Affiliated Individual Membership
- Elections
- Resolutions and orders
- Adjournment

ARTICLE 106 - OFFICERS

106.1 ELECTED OFFICERS AND COMMITTEE CHAIRMEN - The officers, committee chairmen, and coordinators who shall be elected by the House of Delegates are:

- .1 General Chairman
- .2 Administrative Vice-chairman
- .3 Finance Vice-chairman
- .4 Senior Vice-chairman
- .5 Age Group Vice-chairman
- .6 Secretary
- .7 Treasurer
- .8 Technical Planning Chairman

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.9 Safety Coordinator
.10 Membership/Registration Coordinator

106.2 ELECTIONS - The House of Delegates, at its annual meeting, shall elect the officers, committee chairmen, and coordinators listed in **106.1** and members of the Board of Review as provided in **110.3.3**. The House of Delegates at the last regularly scheduled meeting before the next annual meeting shall elect the Nominating Committee as provided in **104.8.1**.

106.3 ELIGIBILITY - Only Individual Members in good standing shall be eligible to hold office and must maintain their eligibility throughout their term of office.

106.4 DOUBLE VOTE PROHIBITED - An Individual Member entitled to vote in the House of Delegates by virtue of holding a position in NCS may not also vote as a Group Member Representative in the House of Delegates.

106.5 OFFICES COMBINED OR SPLIT -

.1 Office Held by Two Persons - Any office other than General Chairman, Finance Vice-chairman and Treasurer, may be held jointly by two Individual Members. This may be accomplished by the Nominating Committee nominating two Individual Members to serve as co-officers or by the House of Delegates electing two at the time of election. In the case of the Administrative Vice-chairman, the House of Delegates at the time of election shall designate one to be the successor to the General Chairman; if no such designation is made, then the person with the longer tenure in such office or as a Board Member shall serve as the successor.

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

106.6 TERMS OF OFFICE -

.1 Term of Office - The terms of office of all elected members of the Board of Directors shall be one year. See exceptions for the Athlete Representatives in **Section 104.1.3** and the Coach Representative in **Section 104.1.4**.

.2 Commencement of Term - Each person elected to a position shall assume office at the conclusion of the annual meeting (Fall House of Delegates) following election and shall serve for a term of one year.

.3 Consecutive Terms Limitation - Except for the Treasurer and the Membership/Registration Coordinator, no Individual Member who has been elected by the House of Delegates and served four successive years shall be eligible for re-election to the same position until a lapse of two years. A portion of any term served to fill a vacancy in the position shall not be considered in the computation of this successive terms limitation.

106.7 DUTIES AND POWERS - The duties and powers of the officers and other Board Members shall be to attend and participate in all meetings of the House of Delegates and the Board of Directors and as follows:

.1 General Chairman: The General Chairman shall oversee and have general charge of the management, business, operations, affairs and property of NCS, and general supervision over its officers and agents; shall call meetings when and where deemed necessary; shall preside at all meetings; and, except as otherwise provided in these Bylaws and with the advice and consent of the Board of Directors, shall appoint committee chairmen and members for standing and special committees or coordinators as may be necessary to permit NCS to effectively, efficiently and economically conduct its affairs. The General Chairman shall report to the Board of Directors all matters within the General Chairman's knowledge that the Board of Directors should consider in the best interests of NCS.

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.2 Secretary: The Secretary, or a delegate, shall be responsible for keeping a record of all meetings of the House of Delegates and Board of Directors, conducting official correspondence, issuing meeting and other notices and making such reports to USA Swimming as are required by **Article 108** of these Bylaws and shall perform the other duties incidental to the office of Secretary. The Secretary shall be custodian of the records and the seal of NCS, and attest the execution of, and cause the seal to be affixed to, all duly authorized instruments. The Secretary shall cause to be kept in safe keeping copies of all minutes, official correspondence, meeting and other notices, and any other records of NCS and the NCS corporate seal. The Secretary's custody of the minute books and other records shall be as a fiduciary for NCS and shall end when the Secretary leaves office and shall pass them on to the successor Secretary.

.3 Treasurer: The Treasurer shall be the principal receiving and disbursing officer of NCS. Except as otherwise directed by the Finance Vice-chairman, the Finance Committee or the Board of Directors, the Treasurer shall receive all moneys, incomes, fees and other receipts of NCS and pay all bills, salaries, expenses and other disbursements approved by an authorized officer, committee chairman, coordinator, the Finance Vice-chairman, the Finance Committee, the Board of Directors or the House of Delegates, or required to be paid pursuant to **Section 110.3.12**. When authorized by the Board of Directors, income and expenses may be received and paid by a division, officer, or committee or coordinator, provided that the division, officer or committee or coordinator promptly submits to the Treasurer an itemized report, duly attested by the division, officer, or committee chairman or coordinator and either within the approved budget of such division, officer, or committee or coordinator, or authorized by the Board of Directors or the House of Delegates. The Treasurer shall be a member of the Finance Committee but may not be its chairman. The Treasurer shall issue a quarterly report listing the current budget variances by line item, all receipts, all expenditures and the current fund and account balances for the preceding quarter and for the fiscal year to date, together with such other items as the Finance Vice-chairman, the Finance Committee, the General Chairman or the Board of Directors may direct. The Treasurer shall:

A. have charge of and supervision over and be responsible for the funds, moneys, securities and other financial instruments of NCS;

B. cause the moneys, securities and other financial instruments of NCS to be deposited in the name and to the credit of NCS in such institutions as shall be designated in accordance with **Section 106.11** or to be otherwise invested as the Finance Vice-chairman, the Finance Committee or the Board of Directors may direct;

C. cause to be appropriately segregated and accounted for any endowment funds, scholarship or award funds and any similar special purpose funds or accounts;

D. cause the funds of NCS to be disbursed by checks or drafts, automated debits or wire transfers upon the authorized depositories of NCS, and obtain and preserve proper vouchers for all moneys disbursed;

E. cause to be kept in the safe-keeping correct books of account and other financial records of all its affairs and transactions and such duplicate books of account as the Board of Directors, the Finance Vice-chairman, the Finance Committee or the Treasurer shall determine. The Treasurer's custody of the books and records shall be as a fiduciary for NCS and custody and fiduciary state shall end when the Treasurer leaves office and passes them on to the successor Treasurer;

F. upon request and at reasonable hours cause such books or duplicates thereof to be exhibited to any member of the Board of Directors and upon application and at reasonable hours cause the quarterly financial reports and the annual audited financial statement to be exhibited to any member of NCS or USA Swimming;

G. cause NCS to be in compliance with the requirements of **Section 108.4**;

H. have the power to require from the officers, committee chairmen, coordinators, staff or agents of NCS reports or statements giving such information as the Treasurer may determine to be

756 appropriate or helpful with respect to any and all financial transactions of NCS;

757

758 I. make the books and records available and otherwise fully cooperate with those conducting the
759 annual audit of accounts of NCS and cause the preparation and timely filing of all required
760 federal, state and local tax returns, and other financial and tax reports with the applicable
761 government official, and forward a copy of the annual financial statement and audit report and
762 any federal tax return to the Secretary for submission to the Board of Directors and USA
763 Swimming national headquarters in accordance with **Sections 108.2 and 108.3**;

764 J. have the power to appoint one or more assistant treasurers and delegate to them one or more
765 of the Treasury functions, or parts thereof; and

766

767 K. in general, perform all the other duties incident to the corporate treasury function.

768

769 **.4 Administrative Vice-chairman:** The Administrative Vice-chairman shall conduct meetings in the
770 absence of the General Chairman and, at the request of the General Chairman or in the event of
771 the disability of the General Chairman, shall perform all of the duties of the General Chairman, and
772 when so acting shall have all of the powers of the General Chairman. (See **Section 106.9.**) The
773 Administrative Vice-chairman shall chair, and have general charge of the business, affairs and
774 property of the division that administers NCS business and affairs. The Administrative Vice-
775 chairman shall aid in the development of policy and the coordination of the activities of the officers
776 and committees within the division internally and with other divisions, committees, and
777 coordinators. The Administrative Division shall be responsible for the creation and maintenance of
778 the NCS Policies and Procedures Manual. The Administrative Vice-chairman serves a liaison to the
779 Athlete Representatives and the Athletes Committee, and shall be responsible to see that the
780 Athlete Representatives elections are held in accordance with these Bylaws.

781

782 **.5 Senior Vice-chairman:** The Senior Vice-chairman shall chair and have general charge of the
783 affairs and property of the Division that develops and conducts the senior swimming program of
784 NCS and coordinates and facilitates the conduct of all swimming programs for NCS including the
785 award of meet sponsorships to Club Members.

786

787 **.6 Age Group Vice-chairman:** The Age Group Vice-chairman shall chair and have general
788 charge of the affairs and property of the Division that develops and conducts the age group
789 swimming program of NCS.

790

791 **.7 Finance Vice-chairman:** The Finance Vice-chairman is the chief financial officer of NCS. The
792 Finance Vice-chairman shall chair and have general charge of the affairs and property of the
793 division that includes the Treasury function, the development and implementation of an investment
794 program for NCS working capital, funded reserves and endowment funds and the development
795 and implementation of a marketing and fund-raising plan for NCS. The Finance Vice-chairman, with
796 the assistance of the Budget Committee, shall prepare an annual budget for NCS operations and
797 present the budget for approval by the Board of Directors and the House of Delegates. In addition,
798 the Finance Vice-chairman shall cause to be conducted the audit required pursuant to **Section**
799 **108.5** and shall review, or shall cause the Audit Committee to review, the annual audit report and
800 recommend acceptance and appropriate action, if any, with regard thereto by the Board of
801 Directors and the House of Delegates. The Finance Vice-chairman is responsible for the adequacy
802 of NCS system of internal financial and accounting controls. The Finance Vice-chairman is the
803 chairman of the Finance and Budget Committees and a member of the Personnel Committee.
804 Together with the Treasurer, the Finance Vice-chairman is ultimately responsible for NCS
805 compliance with **Section 108.4.**

806

807 **.8 Technical Planning Chairman** - The Technical Planning Chairman shall chair, and have
808 general charge of the business, affairs and property of the Technical Planning Committee, which is
809 responsible for long-range planning regarding the swimming programs conducted by NCS, the
810 continuing review and development of the NCS philosophy and for advising other committees and
811 divisions regarding the implementation of that philosophy in the context of NCS swimming

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programs.

.9 Safety Coordinator - The Safety Coordinator shall be responsible for coordinating safety enhancement and training opportunities as needed and for the dissemination of USA Swimming safety education information to all Group Members, athletes, coaches and officials of NCS. The Safety Coordinator shall develop safety education programs and policies for NCS and make recommendations regarding same, and the implementation thereof, to the Senior Vice-chairman, the Administrative Vice-chairman and the Board of Directors. The Safety Coordinator shall make the reports required pursuant to **Section 108.7**.

.10 Membership/Registration Coordinator - The Membership/Registration Coordinator shall be responsible for the registration of Group and Individual Members and shall make the reports required by **Section 108.6**, together with such additional reports as may be required by USA Swimming, the Board of Directors or the Administrative Vice-chairman.

.11 Athlete Representatives: The Athlete Representatives shall serve as the liaison between the athletes who are members of NCS and the Board of Directors and House of Delegates. The Senior Athlete Representative shall chair the Athletes' Committee.

.12 Coach Representatives: The Coach Representatives shall serve as a liaison between the coaches who are members of NCS and the Board of Directors and House of Delegates. The Senior Coach Representative shall chair the Coaches' Committee.

.13 NCS Delegates to USA Swimming House of Delegates

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 Senior Coach Representative to attend USA Swimming annual meeting as representatives of NCS and voting delegates to the USA Swimming House of Delegates.

B. Officer Delegate Alternates - If any of the officer delegates is unable to attend, 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 USA Swimming annual meeting as delegates representing NCS.

C. Athlete Representative Alternates - If an athlete delegate is unable to attend the USA Swimming annual meeting, 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 NCS.

D. Coach Representative Alternates - If the Senior Coach Representative is unable to attend the USA Swimming annual meeting, then the other Coach Representative shall attend, and if neither Coach Representative is able to attend, 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 NCS.

106.8 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.

106.9 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

870 General Chairman ceases to suffer from any temporary incapacity. While serving as Acting General
871 Chairman, the Administrative Vice-chairman shall vacate the office of Administrative Vice-
872 chairman, except in the case of the General Chairman's temporary incapacity. If the General
873 Chairman is to be absent from the Territory, the General Chairman may, but is not obligated to,
874 designate the Administrative Vice-chairman as Acting General Chairman for the duration of the
875 absence.

876
877 **.2 Offices of Athlete or Coach Representatives** - In the event of a vacancy in the office of
878 Athlete Representative or Coach Representative, or of the permanent incapacity of a person
879 holding the office of Athlete Representative or Coach Representative, the General Chairman may
880 appoint, with the advice and consent of the Board of Directors, an Athlete Member or a Coach
881 Member, as the case may be, to serve the remainder of the term of office or until the Athletes
882 Committee or the Coaches Committee, as the case may be, shall elect a successor.

883
884 **.3 Other Offices** - In the event of a vacancy in, or permanent incapacity of the person holding,
885 any office other than General Chairman, Athlete Representative, Coach Representative or
886 member of the Board of Review, the General Chairman shall appoint a successor, with the advice
887 and consent of the Board of Directors, to serve until the next regularly scheduled meeting of the
888 House of Delegates. In the event of a temporary incapacity, the General Chairman may
889 designate, with the advice and consent of the Board of Directors, an Individual Member to act for
890 the incapacitated officer for the duration of the incapacity.

891
892 **.4 Determination of Vacancy or Incapacity** - The determination of when an office becomes
893 vacant or an officer becomes incapacitated shall be within the discretion of the Board of Directors
894 or the House of Delegates with, in the case of an Athlete Representative or a Coach
895 Representative, the advice and consent of the Athletes Committee or the Coaches Committee,
896 respectively. The determination as to when the General Chairman is temporarily incapacitated
897 shall be made, where the circumstances permit, by the General Chairman and otherwise shall be
898 within the discretion of the Board of Directors, subject to any subsequent action by the House of
899 Delegates.

900 901 **106.10 OFFICERS' POWERS GENERALLY**

902 **.1 Authority to Execute Contracts, Etc.** - The General Chairman, Administrative Vice-chairman,
903 and Finance Vice-chairman each may sign and execute in the name of NCS deeds, mortgages,
904 bonds, contracts, agreements or other instruments duly authorized by the NCS Policies and
905 Procedures Manual, the Board of Directors or the House of Delegates, except in cases where the
906 signing and execution thereof shall be expressly delegated by the Board of Directors to another
907 officer or agent, expressly requires two or more signatures or is required by law to be otherwise
908 executed. Additional signing authority may be provided by standing resolutions of the Board of
909 Directors or the House of Delegates.

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911 **.2 Additional Powers and Duties** - Each officer shall have other powers and perform other duties
912 as may be prescribed in NCS Policies and Procedures Manual or by the House of Delegates, the
913 Board of Directors, the General Chairman, the respective division Vice-chairman, the delegating
914 officer or these Bylaws. The division Vice-chairmen shall have the additional duties and powers set
915 forth in **Section 107.1 and 107.5**.

916
917 **.3 Delegation** - Officers of NCS may delegate any portion of their powers or duties to another
918 Individual Member or to a committee composed of Individual Members, except that neither the
919 Finance Vice-chairman nor the Treasurer may delegate duties to the other without the consent of
920 the Board of Directors. In addition, the authority to sign checks, drafts, orders of withdrawal or wire
921 transfers shall not be delegated other than by the Board of Directors. Except as otherwise provided
922 in these Bylaws and with the consent of the Board of Directors, any officer may delegate any
923 portion of that officer's powers or duties to the paid staff of NCS. A delegation of powers or duties
924 shall not relieve the delegating officer of the ultimate responsibility to see that these duties and
925 obligations are properly executed or fulfilled.

926
927 **.4 Assistant and Deputy Officers** - The House of Delegates or the Board of Directors may by
928 resolution or NCS Policies and Procedures Manual may create the office of deputy to one or more

929 of the elected officers. The resolution or the Policies and Procedures Manual shall specify the
930 method of election or appointment and define the duties and powers of the respective deputies,
931 which may include the power to act for the officer when the officer is out of the Territory or
932 temporarily incapacitated. The elected officers may appoint one or more assistant officers and
933 define their respective duties.

934
935 **106.11 DEPOSITORIES AND BANKING AUTHORITY -**

936 **.1 Depositories, Etc.** - All receipts, income, charges and fees of NCS shall be deposited to its
937 credit in the banks, trust companies, other depositories or custodians, investment companies or
938 investment management companies as the Board of Directors may select, or as may be selected
939 by the Finance Committee or any officer or officers or agent or agents authorized to do so by the
940 Board of Directors. Endorsements for deposit to the credit of NCS in any of its duly authorized
941 depositories shall be made in the manner determined by the Finance Vice-chairman, the Finance
942 Committee or the Board of Directors. All funds of NCS not otherwise employed shall be maintained
943 in the banks, trust companies, other depositories or custodians, investment companies or
944 investment management companies designated by the Finance Vice-chairman, the Finance
945 Committee, the Board of Directors or any officer or officers or agent or agents authorized to do so
946 by the Board of Directors.

947 **.2 Signature Authority** - All checks, drafts or other orders for the payment or transfer of money,
948 and all notes or other evidences of indebtedness issued in the name of NCS shall be signed by the
949 General Chairman, the Treasurer or other officer or officers or agent or agents of NCS, and in the
950 manner, as shall be determined by the Finance Vice-chairman, the Finance Committee or the
951 Board of Directors.

952
953 **ARTICLE 107 - DIVISIONS, COMMITTEES AND COORDINATORS**

954
955 **107.1 DIVISIONAL ORGANIZATION AND JURISDICTIONS, STANDING COMMITTEES AND**
956 **COORDINATORS** - The six divisions of NCS shall each be chaired by a Vice-chairman, the Senior
957 Athletes Representative, or the Senior Coaches Representative, whose respective powers, duties,
958 jurisdiction and responsibilities are described in **Section 106.7**. Under each division Vice-chairman
959 there are officers, committees, coordinators and direct responsibilities as follows:

960
961 **.1 Administrative Division - Administrative Vice-chairman**

962 Awards Banquet
963 Bylaws/Legislation/Rules
964 Club Development
965 Elections
966 Equipment
967 Insurance
968 Legal (General Counsel, if applicable)
969 Membership/Registration
970 Personnel
971 Public Relations
972 Publications/Newsletter
973 Policies and Procedures Manual
974 Records/Top 16 Tabulation
975 Swimguide/Parents Manual
976 Secretary
977 Special Events

978
979 **.2 Age Group Division - Age Group Vice-chairman**

980 Adaptive Swimming
981 Age Group
982 Camps/Clinics
983 Open Water
984 Program Development
985 Technical Planning
986 Time Standards
987 Zone Team

988
989 **.3 Senior Division - Senior Vice-chairman**

990 Awards

991	Camps/Clinics
992	Meet Evaluation
993	Meet Management
994	Meet Sanctions
995	Meet Sponsorship
996	Officials
997	OVCs
998	Safety
999	Travel Fund

1000
1001 **.4 Finance Division - Finance Vice-chairman**

1002	Audit
1003	Budget
1004	Finance
1005	Investments
1006	Marketing
1007	Swim-a-thon
1008	Tax
1009	Treasurer

1010
1011 **.5 Athletes Division - Senior Athlete Representative**

1012	Athlete Representatives
1013	Athletes Committee

1014
1015 **.6 Coaches Division - Senior Coach Representative**

1016	Coach Representatives
1017	Coaches Committee

1018
1019 **107.2 NON-OFFICER CHAIRMEN AND THEIR COMMITTEES; COORDINATORS**

1020 **.1 Elected, Ex-officio and Appointed Non-Officer Chairmen and Coordinators**

1021
1022 **A. Elected Chairmen and Coordinators –**

1023	Membership/Registration Coordinator
1024	Safety Coordinator
1025	Technical Planning Chairman

1026
1027 **B. Ex-officio Chairman** - Pursuant to **Section 107.3**, certain other committee chairmen are
1028 designated ex-officio by virtue of an office currently held.

1029
1030 **C. Appointed Chairmen and Coordinators** - The chairmen of all other standing committees and
1031 all other coordinators shall be appointed by the General Chairman with the advice and consent of
1032 the Board of Directors and the respective division vice-chairman. The appointed standing
1033 committee chairman or coordinator shall assume office upon appointment or the date designated
1034 by the General Chairman, and shall serve until sixty (60) days after the next election of a General
1035 Chairman or until a successor is appointed and assumes office.

1036
1037 **.2 Duties and Powers of Non-Officer Chairmen and Coordinators**

1038
1039 **A. Legislation Chairman** - The Legislation Chairman shall chair the Legislation Committee and
1040 shall serve as NCS Parliamentarian.

1041
1042 **B. Marketing Chairman** - The Marketing Chairman shall chair the Marketing Committee.

1043
1044 **C. Membership/Registration Coordinator** - The Membership/Registration Coordinator
1045 shall be responsible for the registration of Group and Individual Members and shall make
1046 the reports required by Section 108.6, together with such additional reports as may be
1047 required by USA Swimming, the Board of Directors or the Administrative Vice-chairman.

1048
1049 **D. Officials Chairman** - The Officials Chairman shall chair the Officials Committee which is
1050 responsible for recruiting, training, certifying and supervising officials for NCS. The Officials

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Chairman shall be a referee certified by NCS and each member of the Officials Committee shall be a certified official of NCS.

- E. **Safety Coordinator** - The Safety Coordinator shall be responsible for coordinating safety enhancement and training opportunities as needed and for the dissemination of USA Swimming safety education information to all Group Members, athletes, coaches and officials of NCS. The Safety Coordinator shall develop safety education programs and policies for NCS and make recommendations regarding same, and the implementation thereof, to the Senior Vice-chairman, the Administrative Vice-chairman and the Board of Directors. The Safety Coordinator shall make the reports required pursuant to **Section 108.7**.
- F. **Technical Planning Chairman** - The Technical Planning Chairman shall chair, and have general charge of the business, affairs and property of the Technical Planning Committee, which is responsible for long-range planning regarding the swimming programs conducted by NCS, the continuing review and development of the NCS philosophy and for advising other committees and divisions regarding the implementation of that philosophy in the context of NCS's swimming programs.
- G. **Athletes Committee Chairman** - The Senior Athlete Representative shall chair and have general charge of the business, affairs and property of the Athletes Committee, which shall be responsible for the publication of an athletes' newsletter and shall undertake such other activities (a) delegated to it by the Board of Directors or the General Chairman or (b) undertaken by the Committee as being in the best interests of the Athlete Members, NCS, USA Swimming and the sport of swimming.
- H. **Coaches Committee Chairman** - The Senior Coach Representative shall chair and have general charge of the business, affairs and property of, the Coaches Committee, which shall undertake such activities (a) delegated to it by the Board of Directors or the General Chairman or (b) undertaken by the committee as being in the best interests of the Coach Members, NCS and the sport of swimming.

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

.1 Athletes Committee - The Athletes Committee shall consist of the Athlete Representatives and at least three other Athlete Members. The Senior Athlete Representative or the Athletes Committee shall determine the number of additional Athlete Members. The Senior Athlete Representative shall be the chairman of the committee.

.2 Audit Committee - The members of the Audit Committee shall be the Finance Vice-chairman, who shall serve as chairman, the Administrative Vice-chairman and the Senior Coach Representative.

.3 Budget Committee - The members of the Budget Committee shall be the General Chairman, the Finance Vice-chairman, who shall serve as chairman, the Treasurer, the Administrative Vice-chairman, the Senior Athlete Representative, the Senior Coach Representative, the Age Group Vice-chairman and the Senior Vice-chairman.

.4 Coaches Committee - The members of the Coaches Committee shall consist of the Coach Representatives and such additional Coach Members as may be determined by the Coach Representatives. The Senior Coach Representative shall be the chairman of the committee.

.5 Finance Committee - The members of the Finance Committee shall be the General Chairman, the Finance Vice-chairman, who shall serve as chairman, the Administrative Vice-

1110 chairman and the Treasurer.

1111
1112 **.6 Investment Committee** - The members of the Investment Committee shall be the General
1113 Chairman, the Finance Vice-chairman, who shall serve as chairman, the Treasurer and at least two
1114 others who are not members of the Board of Directors.

1115
1116 **.7 Officials Committee** - The members of the Officials Committee shall be the Officials
1117 Chairman, who shall serve as chairman, and at least two other members each of whom shall be
1118 a certified official of NCS.

1119
1120 **.8 Personnel Committee** - The members of the Personnel Committee shall be the General
1121 Chairman, who shall serve as chairman, the Administrative Vice-chairman and the Finance Vice-
1122 chairman.

1123
1124 **.9 Technical Planning Committee** - The members of the Technical Planning Committee shall
1125 be the Technical Planning Committee Chairman, who shall serve as chairman, an Athlete
1126 Member and at least six (6) additional members of whom at least fifty percent (50%) shall be
1127 Coach Members. The Athlete Member and the additional members shall be appointed by the
1128 General Chairman with the advice and consent of the Board of Directors.

1129
1130 The General Chairman or the respective division vice-chairman may appoint the specified
1131 additional members and any other members deemed appropriate or necessary for any of the
1132 foregoing standing committees, except the Athletes, Coaches and Personnel Committees.
1133 Committee members appointed pursuant to the preceding sentence, shall hold their
1134 appointments at the pleasure of the appointing officer or successor.

1135
1136 **107.4 DUTIES AND POWERS OF STANDING COMMITTEES AND COORDINATORS -**
1137 **.1 Audit Committee** - The Audit Committee is authorized to, and it shall be its duty to conduct
1138 the annual audit of the books of NCS pursuant to **Section 108.5** and present the results thereof
1139 to the Board of Directors and the House of Delegates.

1140
1141 **.2 Budget Committee** - The Budget Committee is authorized and obligated to consult with the
1142 officers, committee chairmen and coordinators and prepare and present a proposed budget for
1143 consideration and approval by the Board of Directors and the House of Delegates. The officers,
1144 committee chairmen and coordinators shall provide promptly such financial information (current
1145 and projected) and budget proposals as the Budget Committee may request. The proposed
1146 budget may contain alternatives.

1147
1148 **.3 Finance Committee** - The Finance Committee is authorized and obligated to regularly review
1149 NCS's equipment needs (both operational and office) and the various methods available to finance
1150 the acquisition of any needed equipment, make a determination of the best financing method for
1151 NCS and make recommendations to the Budget Committee and the Board of Directors.

1152
1153 **.4 Investment Committee** - The Investment Committee is authorized and obligated to develop,
1154 establish where so authorized or recommend to the Board of Directors and supervise the
1155 execution of policy regarding the investment of NCS working capital, funded reserves and
1156 endowment funds, within the guidelines, if any, established by the Board of Directors or the House
1157 of Delegates.

1158
1159 **.5 Legislation Committee** - The Legislation Committee is authorized to, and it shall be its duty
1160 to initiate and consider proposed amendments to the NCS Bylaws and Rules and present them
1161 to meetings of the House of Delegates with recommendations. The Legislation Committee shall
1162 officially interpret the NCS Bylaws and Rules.

1163
1164 **.6 Marketing Committee** - The Marketing Committee is authorized to maintain and solicit new
1165 NCS sponsors, provide information on swimming to NCS members and the public, and assist NCS

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members with sponsor relations.

.7 Membership/Registration Coordinator - The Membership/Registration Coordinator is authorized and obligated to conduct the registration of Group and Individual Members and supervise the transmission of registration information to USA Swimming and assist in the preparation of the reports required by **Section 108.6**, together with such additional reports as may be requested by USA Swimming, the Board of Directors, the Administrative Vice-chairman or the Finance Vice-chairman.

.8 Officials Committee - The Officials Committee is authorized and obligated to recruit, train, test, certify, evaluate, retest, recertify and supervise officials for NCS and such other activities as may be necessary or helpful in maintaining a roster of qualified, well-trained and experienced officials of the highest caliber.

.9 Personnel Committee - The Personnel Committee is authorized and obligated to negotiate and set wages, compensation and other terms of employment of NCS staff (whether employees or independent contractors) within established, budgetary guidelines and policies and to review and approve the scope of duties delegated to the staff.

.10 Safety Coordinator - The Safety Coordinator shall be responsible for coordinating safety enhancement and training opportunities as needed and for the dissemination of USA Swimming safety education information to all Group Members, athletes, coaches and officials of NCS. The Safety Coordinator shall develop safety education programs and policy for NCS and make recommendations regarding those programs and policies and their implementation to the applicable division Vice-chairmen and the Board of Directors. When approved by the Board of Directors, the Safety Coordinator shall be responsible for the coordination of their implementation by the Club Members. The Safety Coordinator shall prepare and transmit the reports required pursuant to **Section 108.7**.

.11 Technical Planning Committee - The Technical Planning Committee shall be responsible for long-range planning for the swimming programs conducted by NCS and for advice regarding the technical aspects of those programs and of the sport of swimming generally.

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

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

.2 See that all duties and responsibilities of the coordinator or the respective division, committee or sub-committee in his charge are properly and promptly carried out;

.3 Appoint such committees or sub-committees as may be necessary to fulfill the duties and responsibilities of the coordinator or division or committee, respectively;

.4 Communicate with the respective division, coordinator, committee or subcommittee members to keep each fully informed;

.5 Keep the General Chairman, the respective division vice-chairman or committee chairman and the Secretary of NCS informed of the respective coordinator, division, committee or subcommittee actions and recommendations;

.6 Appoint a member as secretary of the division, committee or subcommittee charged with taking minutes of each meeting and forward reports or minutes of all meetings to the NCS Secretary;

.7 Refer to the Board of Directors any recommendation for action which would establish or change

1223 policies or programs for NCS, except as otherwise provided in these Bylaws or by the Board of
1224 Directors; and

1225
1226 .8 Perform the other specific duties listed in the NCS Policies and Procedures Manual or as may
1227 be delegated by the General Chairman, the respective division vice-chairman or committee
1228 chairman, the Board of Directors or the House of Delegates.

1229
1230 **107.6 DUTIES AND POWERS OF COMMITTEES AND COORDINATORS GENERALLY -**
1231 Except as otherwise provided in these Bylaws, the duties and powers of the standing committees
1232 and coordinators shall be prescribed by NCS Policies and Procedures Manual, the House of
1233 Delegates, the Board of Directors, the General Chairman or the respective division vice-chairman.
1234 Except as otherwise provided in the Bylaws, the duties and powers of any other committees and
1235 subcommittees shall be prescribed by NCS Policies and Procedures Manual, the House of
1236 Delegates, the Board of Directors or the officer, coordinator or chairman pursuant to whose
1237 powers such committee or subcommittee was created.

1238
1239 **107.7 REGULAR AND SPECIAL MEETINGS -** Regular and special meetings of divisions,
1240 committees or sub-committees of NCS shall be held as determined by the respective Vice-
1241 chairmen or committee or sub-committee chairman. In addition, meetings may be called where
1242 applicable by the division vice-chairman, or committee chairman or coordinator pursuant to whose
1243 authority a committee or subcommittee was established.

1244
1245 **107.8 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS -** Meetings of divisions, committees
1246 and sub-committees other than the Personnel Committee shall be open to all members of NCS and
1247 USA Swimming. Matters relating to personnel, disciplinary action, legal, taxation and similar affairs
1248 shall be deliberated and decided in a closed executive session which only the respective members
1249 are entitled to attend. By a majority vote on a motion of a question of privilege, a division,
1250 committee or sub-committee may decide to go into executive session on any matter deserving of
1251 confidential treatment or of personal concern to any member of the division, committee or sub-
1252 committee.

1253
1254 **107.9 VOICE AND VOTING RIGHTS OF DIVISION, COMMITTEE AND SUB-COMMITTEE**
1255 **MEMBERS -** The voice and voting rights of Board Members and Individual Members shall be as
1256 follows:

1257 **.1 Members -** Each division, committee and sub-committee member shall have both voice and
1258 vote in the respective meetings.

1259
1260 **.2 Non-Voting Committee or Sub-committee Members -** Unless entitled to vote under another
1261 provision of these Bylaws, the General Chairman shall have voice but no vote in meetings of
1262 divisions, committees and sub-committees.

1263
1264 **.3 Individual Members -** Individual Members who are not members of the division,
1265 committee or sub-committee may attend open meetings of the division, committee or sub-
1266 committee and be heard in the discretion of the presiding officer. Unless entitled to vote
1267 under another provision of these Bylaws, Individual Members shall have no vote in those
1268 meetings.

1269
1270 **107.10 ACTION BY WRITTEN CONSENT -** Any action required or permitted to be taken at
1271 any meeting of a division, committee or sub-committee may be taken without a meeting if all
1272 the division, committee or sub-committee members entitled to vote consent to the action in
1273 writing and the written consents are filed with the records of the meetings. These consents
1274 shall be treated for all purposes as a vote taken at a meeting.

1275
1276 **107.11 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT -** Members of any
1277 division, committee or sub-committee may participate in a meeting of the division, committee or
1278 sub-committee through conference telephone or similar equipment by means of which all persons
1279 participating in the meeting can hear each other at the same time. Participation by such means

1280 shall constitute presence in person at a meeting.

1281
1282 **107.12 QUORUM** - Except as otherwise provided in these Bylaws or in the resolution or other
1283 action establishing a committee or subcommittee, a quorum of any committee or subcommittee
1284 shall consist of a majority of the members of the committee or subcommittee.

1285
1286 **107.13 VOTING** - Except as otherwise provided in these Bylaws or the Parliamentary
1287 Authority, all motions, orders and other propositions coming before a division, committee or
1288 subcommittee shall be determined by a majority vote.

1289
1290 **107.14 PROXY VOTE** - Voting by proxy in any meeting of a division, committee or sub-
1291 committee of NCS shall not be permitted.

1292
1293 **107.15 NOTICES** -
1294 **.1 Time** - Except as otherwise provided in these Bylaws or the resolution or other action
1295 establishing a committee or sub-committee, not less than forty-eight (48) hours notice in the case of
1296 notice given by telephone, and six (6) days notice in all other cases, shall be given for any meeting
1297 of a division, committee or sub-committee of NCS. Separate notices need not be given for regular
1298 meetings that are scheduled well in advance. (See **Section 117.1.5** for the various forms of notice.)

1299
1300 **.2 Information** - The notice of a meeting shall contain the time, date and site.

1301
1302 **107.16 ORDER OF BUSINESS** - At all meetings conducted under the authority of this Article, the
1303 following shall be included in the order of business to the extent applicable; the order in which
1304 subjects are taken up may be varied:

1305
1306 Roll Call
1307 Reading, correction and adoption of minutes
1308 Reports of coordinators, committees and subcommittees
1309 Unfinished (old) business
1310 New business
1311 Resolutions and orders
1312 Adjournment

1313
1314 **107.17 RESIGNATIONS** - Any committee or subcommittee chairman or member or coordinator
1315 may resign by orally advising the General Chairman or by submitting a written resignation to the
1316 Board of Directors specifying an effective date of the resignation. If such date is not specified, the
1317 resignation shall take effect upon the appointment of a successor.

1318
1319 **107.18 VACANCIES** - The determination of when the position of an appointed committee or
1320 subcommittee chairman, committee member or a coordinator becomes vacant or the person
1321 becomes incapacitated, if not made by the person, shall be within the discretion of the Board of
1322 Directors. (See **Section 106.9** for provisions applicable to elected committee chairmen and
1323 coordinators.) In the event of a vacancy or permanent incapacity, the General Chairman, with the
1324 advice and consent of the Board of Directors and the respective division vice-chairman, shall
1325 appoint a successor to serve until the conclusion of the incumbent's term. A temporary incapacity
1326 may be left unfilled at the discretion of the General Chairman or an appointment may be made for
1327 the duration of the temporary incapacity.

1328
1329 **107.19 DELEGATION** - With the consent of the Board of Directors or the respective division
1330 Vice-chairman, a committee or subcommittee chairman or a coordinator may delegate a portion
1331 of their powers or duties to another officer of NCS, or to another committee, subcommittee or
1332 coordinator, or, with the consent of the Board of Directors or the Personnel Committee, to the
1333 paid staff of NCS. Notwithstanding any delegation, the ultimate responsibility for the delegated
1334 duties and obligations shall remain with the delegate.

1335
1336 **107.20 APPLICATION TO NOMINATING COMMITTEES AND BOARD OF REVIEW** - **Sections**
1337 **107.5 through 107.16** shall apply to the Nominating Committee and any other committee of the

1338 Board of Directors or the House of Delegates, unless otherwise provided in these Bylaws, in the
1339 resolution creating the committee or in the NCS Policies and Procedures Manual. These provisions
1340 shall also apply to Board of Review meetings, but shall not apply to its hearings or deliberations.
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1346 **ARTICLE 108 - ANNUAL AUDIT, REPORTS AND REMITTANCES**

1347
1348 **108.1 MINUTES** - The Secretary shall, within thirty (30) days after each meeting of the Board
1349 of Directors and the House of Delegates, transmit a copy of the minutes of the meeting to the
1350 respective members and to USA Swimming national headquarters.

1351
1352 **108.2 FINANCIAL AND FEDERAL TAX REPORTS** - The Secretary shall forward to USA
1353 Swimming national headquarters a copy of the annual closing Balance Sheet and Statement of
1354 Income and Expense for the preceding fiscal year following completion of the audit of the
1355 accounts and internal financial controls and procedures of NCS and the report thereon prepared in
1356 accordance with **Section 108.5**, within fifteen (15) days of receipt of the audit report and shall
1357 advise USA Swimming national headquarters within thirty (30) days following acceptance by the
1358 House of Delegates. Copies of any corresponding federal income tax return required to be filed by
1359 NCS under the IRS Code shall be included with the annual audit report sent to USA Swimming
1360 national headquarters.

1361
1362 **108.3 STATE AND LOCAL REPORTS AND FILINGS** - The Secretary shall cause to be made all
1363 reports and non-tax filings and shall requisition from the Treasurer checks with which to pay any
1364 applicable fees required by its state of incorporation and by any other state or municipality in which
1365 it operates.

1366
1367 **108.4 PUBLIC AVAILABILITY OF CERTAIN INFORMATION** - NCS shall cause to be made
1368 available at a reasonable location and time determined by NCS to anyone requesting to see a copy
1369 of NCS federal income tax and information returns for each of the last three years, and a copy of
1370 the materials submitted by USA Swimming to include NCS in USA Swimming s group exemption
1371 ruling as required pursuant to IRS Code section 6104 and any similar requirements of applicable
1372 state or local laws.

1373
1374 **108.5 ANNUAL AUDIT** - An annual audit of the accounts, books and records of NCS shall be
1375 completed no later than the end of the third month following the end of its fiscal year. The audit, or
1376 review, shall be conducted by the Audit Committee. The audit shall cover any federal, state or local
1377 income tax return that NCS is required to file under the IRS Code or applicable provisions of state
1378 or local law, rules or regulations, the balance sheet, the statement of income and expenses, check
1379 register and bank statements and other records as is deemed appropriate. If the audit, or review, is
1380 conducted by the Audit Committee or the Finance Committee, the committee shall issue a report
1381 signed by all of its members and stating that the financial records and reports of NCS have been
1382 reviewed and fairly present the financial condition of NCS as of the date of the balance sheet and
1383 for the fiscal period of the statement of income and expenses and the report is true and correct to
1384 the best of the Committee's knowledge, information and belief. If the audit, or review, is conducted
1385 by an independent auditor, the report shall be in accord with generally accepted auditing practices
1386 applicable to the audit or review, as the case may be.

1387
1388 **108.6 MEMBERSHIP AND REGISTRATION REPORTS** - The Membership/Registration
1389 Coordinator, or a delegate, shall forward in a timely manner all required reports to the Executive
1390 Director of USA Swimming. This report shall be accompanied by a remittance of the appropriate
1391 membership and registration fees due to USA Swimming. The Membership/Registration
1392 Coordinator shall make periodic summary reports to the Administrative Vice-chairman, the Board of
1393 Directors and the House of Delegates.

1394
1395 **108.7 SAFETY REPORTS** -

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.1 Incident/Occurrence Reports - An occurrence report providing all of the information requested by applicable USA Swimming form should be completed at the time of the occurrence by the meet director, officer, coach or club officer with copies to USA Swimming national headquarters, the Safety Coordinator and the Administrative Vice-chairman.

.2 Reports of Injuries - The Safety Coordinator shall present a report concerning swimming-related injuries within the Territory at each House of Delegates and Board of Directors meeting.

A. House of Delegates Reports - The report to the House of Delegates shall be written and shall provide in summary form the pertinent information including whether the injured party is a member of NCS and USA Swimming, the location of the occurrence and a brief description of the incident, the resulting injury and the emergency-care steps taken, together with any recommendation for action by NCS and its members to reduce the likelihood of a re-occurrence and the status of that recommendation. The written report shall include a review of the pertinent statistical information provided by USA Swimming national headquarters. The Safety Coordinator is responsible for distribution of this report to each Club Safety Coordinator. A copy of each House of Delegates report shall also be sent to the USA Swimming national headquarters.

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

.3 Safety Education - The Safety Coordinator shall be responsible for disseminating safety information flowing from USA Swimming Headquarters and, exploring safety education opportunities and developing a safety education program tailored to NCS and its members and Territory.

108.8 MAILING ADDRESS - NCS shall notify in writing USA Swimming national headquarters of any change in its regular mailing address within 14 days of the change.

108.9 REPORTS GENERALLY - NCS shall make all reports and remittances to USA Swimming as specified in the USA Swimming Code or by the National Board of Directors or National House of Delegates, in such a manner and on such written forms as may be requested by USA Swimming national headquarters. The General Chairman, the Membership/Registration Coordinator, the Secretary, the Finance Vice-chairman and the Treasurer shall be collectively responsible for seeing that all required reports and remittances are made.

ARTICLE 109 - MEMBERS' BILL OF RIGHTS

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

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

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ARTICLE 110 - BOARD OF REVIEW, HEARINGS AND RIGHT OF APPEAL

110.1 INTRODUCTION - USA Swimming was organized as the National Governing Body for the sport of swimming under the Amateur Sports Act of 1978, a federal law. That law requires USA Swimming to establish and maintain provisions for the swift and equitable resolution of all disputes involving any of its members. This Article, together with **Section 102.2** and **Article 109**, and the USA Swimming Code of Ethics are intended to provide a clear statement of member responsibilities, liabilities for infractions thereof and a mechanism for resolving in an orderly and fair way all manner and kinds of disputes that may arise among its members in connection with the sport of swimming. Accordingly, NCS has established the Board of Review to hear complaints, protests and appeals regarding the administration and conduct (including acts and failures to act) of the sport of swimming in the Territory, conduct that may violate the USA Swimming Code of Ethics or otherwise violate the policies, procedures, rules and regulations adopted by USA Swimming or NCS, or conduct that may bring USA Swimming, NCS or the sport of swimming into disrepute. This Article is intended to provide a uniform method of appeal from any decision, act or failure to act to which a member of NCS or, where the conduct occurred in the Territory, another LSC takes exception, and to provide an opportunity for a fair hearing before a group of independent and impartial people. This Article shall be construed accordingly.

110.2 DEFINITIONS FOR ARTICLE 110 - When used in this **Article 110**, the following terms shall have the meanings indicated in this Section and the definitions of such terms are equally applicable to both the singular and plural forms. Where a cross reference to another Section of the Bylaws appears within the definition, the definition is qualified by the more complete definition found in that Section:

- .1 **"Answer"** shall mean the written response to a Protest and Notice filed in accordance with **Section 110.6.1C** and served in the manner prescribed in **Section 110.10**.
- .2 **"Chairman"** when standing by itself shall mean the Chairman of the Board of Review.
- .3 **"Notice"** shall mean the writing addressed to the Respondent advising that the Respondent has been named a respondent in a Protest and served in accordance with **Section 110.10**. The Notice sets the hearing date and procedures and establishes the schedule to be followed leading to the hearing, among other things. See **Section 110.2.3**.
- .4 **"Presiding Officer"** shall mean the Chairman or another member of the Board of Review designated by the Chairman to preside at a particular hearing or hearings. Where applicable the term shall include an attorney so designated pursuant to **Section 110.3.12B**.
- .5 **"Protest"** shall mean a written complaint filed in accordance with **Section 110.6.1A** by a Group Member or an applicant for such status, or an Individual Member or applicant for such status or, with regard to conduct occurring in the Territory, a member of another LSC, against a member of NCS or a constituent element, officer or agent of NCS. The Protest may relate to an applicant's having been denied membership in NCS or a member's alleged infraction against its responsibilities under **Section 102.2** or about a decision or action by someone acting under the authority of NCS or USA Swimming or, with regard to conduct in the Territory, another LSC.
- .6 **"Protestor"** shall mean the Individual Member or Group Member that has filed a Protest with the Board of Review.
- .7 **"Rebuttal"** shall mean the written response to an Answer by a Protestor filed in accordance with **Section 110.6.1D** and served in the manner prescribed in **Section 110.10**.
- .8 **"Respondent"** shall mean the person against whom a Protest has been filed with the Board of Review or who may be affected by a decision of the Board of Review regarding the Protest.

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.9 "Vice-chairman" when used by itself shall mean the Vice-chairman of the Board of Review.

110.3 BOARD OF REVIEW ORGANIZATION -

.1 **Establishment** - The Board of Review of NCS shall be independent and impartial.

.2 **Members** - The Board of Review shall have five (5) regular members and three (3) alternate members. The House of Delegates may increase the number of regular or alternate members by resolution but subsequent to the adoption of these Bylaws may only decrease the number of regular or alternate members upon the expiration of the term of office of any incumbent members.

.3 Election; Term of Office; Eligibility

A. Election - The House of Delegates shall annually elect regular and alternate members of the Board of Review: Two regular and two alternate members shall be elected in even-numbered years and three regular and one alternate members in odd-numbered years.

B. Term of Office - The term of office shall be two years. Each member and alternate member shall assume office on January 1 following election and shall serve until a successor takes office.

C. Eligibility - Each regular and alternate member of the Board of Review shall be an Individual Member of NCS and USA Swimming. In no case shall members of the Board of Directors constitute a majority of the Board of Review.

.4 **Chairman Elected by Board; Other Officers** - The Chairman, who must be a regular member, shall be elected annually by a majority vote of the regular members of the Board of Review. The Chairman shall annually appoint a Vice-chairman and a Secretary of the Board of Review, each of whom must be regular members.

.5 **Meetings** - The Board of Review shall meet for administrative purposes at least once annually to elect the Chairman, to adopt rules and procedures and to conduct other business as may be helpful or necessary to achieve the purposes of the Board of Review and efficiently exercise its duties and powers. Other meetings may be called by the Chairman or any three regular members. When meeting for administrative purposes, those provisions of [Article 107](#) that are specified in [Section 107.20](#) shall apply to the Board of Review.

.6 **Participation Through Communications Equipment** - Members of the Board of Review may participate in a meeting or hearing of the Board of Review, and any hearing may be conducted, in whole or in part, through conference telephone or similar equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by these means shall constitute presence in person at such a meeting or hearing.

.7 **Quorum** - A quorum for any administrative meeting of the Board of Review shall be fifty percent (50%) of its regular members. (The rule prescribed in [Section 110.5.1C](#) governs the quorum for hearings and re-hearings conducted by the Board of Review.)

.8 **Resignations** - Any regular or alternate member of the Board of Review may resign by orally advising the Chairman or by submitting a written resignation to the Chairman, the General Chairman or 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.

.9 Incapacities and Vacancies

A. Office of Chairman - In the event of a vacancy in the office of the Chairman, or of the Chairman's temporary or permanent incapacity, the Vice-chairman shall become the

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Acting Chairman until an election can be held at a meeting of the Board of Review to fill the remaining term, if any, of the former Chairman, or until the Chairman ceases to suffer from any temporary incapacity. If the Chairman is going to be absent from the Territory, the Chairman may, but is not obligated to, designate the Vice-chairman as Acting Chairman for the duration of the absence.

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

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

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

.10 Substitutions for Members - In the event that a member of the Board of Review or a Presiding Officer is unable or unwilling to promptly act for any reason, recuses herself or himself or is disqualified in any particular circumstance, the Chairman (or, if the person so unable or unwilling to act or recused or disqualified is the Chairman, the Vice-chairman; or failing that, the General Chairman) shall appoint another regular member or one of the alternate members or, if none of the alternate or regular members is available, a disinterested Individual Member to act in the member's place and stead in respect of that circumstance.

.11 Extensions of Time - The time by which any act is required to be taken pursuant to this [Article 110](#) may be extended or foreshortened by the Chairman, or the Presiding Officer for a particular hearing, for good cause. (A single exception to this rule is provided in [Section 110.6.4](#).) A party's request for an extension of time prior to the time established without regard to the requested extension will be accorded greater deference than a request made later. The time, date and location of any hearing may be changed by the Chairman or the Presiding Officer for a particular hearing on his or her own initiative, as required by the interests of the Board of Review or in the interests of justice.

.12 Advice; Attorney as Presiding Officer

A. Legal and Other Advice - Where appropriate or helpful, the Chairman or Presiding Officer may consult the USA Swimming General Counsel, the Chairmen of the USA Swimming Rules and Regulations Committee or Officials Committees or of the Bylaws Subcommittee or an attorney (who need not be a member of NCS, USA Swimming or the Board of Review) retained by the Board of Review or the Chairman regarding any issue

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raised by a proceeding.

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

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

.13 Code of Conduct for Members of Board of Review; Recusal

A. Code of Conduct - Members of the Board of Review shall:

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

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

- (1) in which their impartiality might reasonably be questioned;
- (2) where they have a personal bias or prejudice concerning a party in the matter pending before the Board of Review or have personal knowledge of disputed evidentiary facts concerning the pending matter (other than knowledge obtained as a Board of Review member);
- (3) where they or a member of their household are a party or are likely to be a material witness in the pending matter;
- (4) where they or a member of their household have an interest that could be substantially affected by the outcome of the proceeding; or
- (5) where they or a member of their household have served or are serving as counsel in the pending matter or are members of a law firm that served or is serving as counsel in the pending matter.

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

D. Recusal/Disqualification Requested by Party - By written notice to the Presiding Officer or the Chairman, or, in the case in which the Chairman is the subject of the notice, the Vice-chairman, any party may request that the members recuse themselves or be disqualified from serving on the pending matter stating the reasons for recusal or disqualification. Such notice shall be given at least ten (10) business days prior to the scheduled date of the hearing on such matter or later if the party sustains the burden of proving good cause for the lateness of the notice. The named member shall reach a decision on the matter and notify the Chairman or the Vice-chairman of that decision within five (5) Business Days of receipt of the party's notice. If the member's decision is not in favor of recusal, then the Chairman or the Vice-chairman may, but is not required to, disqualify the member from participating in the pending matter. If there is no disqualification, the hearing shall be conducted and the party giving the notice may appeal the disqualification decision, together with the hearing decision, pursuant to **Section 110.5.2**.

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E. Substitution for Recused or Disqualified Member - In the event of a recusal or a disqualification, a substitute shall be appointed as provided in **Section 110.3.10**.

110.4 GENERAL JURISDICTION -

.1 Administrative Powers - The Board of Review shall have the powers and the duty to:

- A. administer and conduct the affairs and achieve the purposes of the Board of Review,
- B. establish policies, procedures and guidelines,
- C. elect the Chairman in accordance with **Section 110.3.4**,
- D. elect or provide for the appointment of other officers, agents, committees or coordinators to hold office for terms, and to have the powers and duties, specified,
- E. call regular or special meetings of the Board of Review,
- F. retain attorneys, agents and independent contractors and employ those persons which the Board of Review may determine are appropriate, necessary or helpful in the administration and conduct of its affairs and
- G. as may otherwise be appropriate, necessary or helpful in the administration and conduct of its affairs, the achievement of its purposes and the efficient exercise of its duties and powers.

.2 Rule Making Powers - The 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 NCS, its status or conduct as a Local Swimming Committee or the administration of the sport of swimming in the Territory which involves:

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

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 USA Swimming 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 USA Swimming 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 of 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

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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 refile 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 110.10**), 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 110.9**.

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

.7 Power of Board to Devise Remedies and Impose Penalties

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

- (1) dismiss the Protest with or without permission to refile;
- (2) censure or fine;
- (3) establish a period of probation;
- (4) prohibit or mandate future actions, inaction or conduct;
- (5) determine the results of, or require a rerun of, any election held by NCS or any constituent element thereof;
- (6) vacate, modify, sustain, reverse, remand or stay any decision or order of a smaller panel of the Board of Review, the House of Delegates, the Board of Directors, any officer, division or committee, coordinator or official of NCS;
- (7) interpret any provision of the FINA rules and regulations to the extent not pre-empted by FINA, the USA Swimming Code (except for Part One), the USS USA Swimming Code of Ethics, these Bylaws, other policies, rules, regulations and procedures of USA Swimming or NCS, the Amateur Sports Act of 1978, a federal law, and other applicable laws, rules and regulations and adjudicate alleged inconsistencies and claims of supremacy and invalidity;
- (8) deny, grant, suspend or restore the eligibility or right to compete of an Athlete Member of NCS and USA Swimming;
- (9) deny, grant, suspend or restore membership in NCS and USA Swimming for a definite or indefinite period of time, with or without terms of probation, or expel any Group Member or Individual Member of NCS and USA Swimming, including any administrator, athlete, coach, trainer, manager, meet director, official, officer, Board Member, House of Delegates representative of a Group Member, coordinator or chairman or member of any committee or sub-committee;
- (10) prohibit for a definite or indefinite period of time the participation by a non-member volunteer or other person in any capacity whatsoever in the affairs of USA Swimming, NCS, its Group Members or another LSC and their Group Members;
- (11) assess costs, including any filing fee and attorneys fees and expenses, to the prevailing party or refund any filing fee paid by the prevailing party; and
- (12) any combination of any of the foregoing or any other remedies deemed appropriate in the circumstances.

B. Preliminary Hearing and Temporary Orders - In appropriate cases, the Board of Review, after an initial investigation and/or a preliminary hearing, may make in its

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discretion temporary orders for the good of the sport of swimming. The temporary order may encompass any remedy or order permissible in a final decision and may include, by way of example, suspending membership, granting the right to participate or coach in a competition, permitting an athlete to compete subject to protest or offering or ordering the parties to attempt to resolve their differences pursuant to mediation or other alternative dispute resolution mechanisms prior to any hearing before the Board of Review. These orders may be made effective pending full hearings by the Board of Review or the conclusion of administrative or judicial proceedings of other bodies addressing the same or similar issues or on other terms as determined by the Board of Review. Instances in which such temporary orders might be made include cases in which a member has been indicted or otherwise formally charged with or accused of committing a crime (including felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, a violation of a law specifically designed to protect minors or similar offenses. Temporary orders may not be separately appealed prior to the decision being issued in the proceeding unless the Chairman or the Chairman of the National Board of Review in their discretion grant permission to an aggrieved party to appeal the temporary orders prior to the final Board of Review decision in the matter.

C. Grounds (Reasons) for Imposition - The Board of Review may fashion remedies and orders and impose penalties with respect to any Group or Individual Member or non-member volunteer of NCS or of a Group Member (1) who has violated any of the regulations, rules, policies or procedures of NCS, USA Swimming or FINA, including any of the responsibilities of membership set forth in **Section 102.2**, (2) who aids, abets, instigates or encourages another to violate any of such regulations, rules or policies, (3) who is responsible for any such violation by another under **Section 102.2.2**, (4) who has been 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 to have committed actions which would be the basis for a conviction, or (5) who has acted in a manner which has brought, or may bring, into disrepute NCS, USA Swimming or the sport of swimming.

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

110.5 HEARINGS AND REHEARINGS GENERALLY -

.1 Hearings

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

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

C. Quorum of Panel - At least three (3) members of a designated panel (or of the full Board of Review) must be present at any initial hearing before the panel and at seven (7) regular members must be present at any rehearing.

D. Permissible Hearing Formats - A hearing before the Board of Review may be conducted through the receipt of the procedural documents and other written statements or a hearing at which the parties may appear in person or by means of communications equipment described in **Section 110.3.6** and testimony may be taken and other forms of pertinent information presented in addition to oral argument by the parties or their counsel, as determined by the Chairman or Presiding Officer. In the discretion of the Chairman or the Presiding Officer, the hearing may be conducted in part through written means and in part by testimony and oral argument.

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

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.

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.2 Re-hearings

A. Circumstances Permitting; Rehearing Body - At the request of the Protestor, 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 (or, if the Board of Review is larger than seven (7) members, by a panel of at least seven (7) members designated by the Chairman in his discretion). Members of the initial hearing panel may be members of the rehearing panel.

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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.

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C. Time within which a Rehearing may be Requested - The Protestor, 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.

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D. Failure to Request a Rehearing - A person may not appeal pursuant to **Section 110.9** a decision of a panel of less than seven members without first making a timely request for a rehearing.

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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.

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(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.

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(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 110.9**.

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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 Rebuttal, any temporary orders or partial decisions made and the Notice of Decision, together with any additional memoranda and written evidence filed by the parties. To the

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extent applicable, the procedures for a formal hearing shall apply to a rehearing. See **Sections 110.5.1 and 110.6.1E**.

.3 Closed Hearings - Any hearing, or a part thereof, shall be closed to everyone except members of the Board of Review, the Presiding Officer, an attorney advising the Presiding Officer, the Protestor, the Respondent, any other party, their counsel and any witnesses at the request of any of the parties and may be closed at the discretion of the Chairman or the Presiding Officer as being in the best interests of justice and the sport of swimming. If a hearing is closed, the Board of Review may in its discretion direct the participants to keep the proceedings and the decision confidential and all or parts of the record of the hearing to be kept confidential by NCS and USA Swimming.

.4 Extensions of Time - The general rule regarding extensions of time within which any act is required to be taken pursuant to this **Article 110** appears in **Section 110.3.11**.

.5 Accelerated Hearing Schedule - With the agreement of all parties to a hearing, the Chairman, or the Presiding Officer for the hearing, may order an accelerated hearing schedule in the interest of justice and the sport of swimming.

110.6 HEARING PROCEDURES - The procedures to be followed in connection with all hearings shall be as follows:

.1 Formal Hearing

A. Protest - The Protestor shall submit to the Chairman of the Board of Review (if submitted to the General Chairman the statement is not defective, but the allowable period of time for the Notice shall not commence until the statement is received by the Chairman) a written statement setting forth a description of the action, inaction or conduct that is believed to have been improper or incorrect, and the name of the person or group believed to have acted improperly or the circumstances believed to require answers, explanation or clarification. This written statement becomes the Protest under **Section 110.2.5**. The Protest shall be accompanied by any filing fee due under **Section 110.4.6** or by an application for waiver of the fee.

B. Notice - Each Respondent shall be given a written notice of the Protest. This written notice becomes the Notice under **Section 110.2.3**. The Notice shall be sent to each Respondent's last known address (determined in accordance with the provisions of **Section 110.10**) by certified or express mail, return receipt requested, by Federal Express, signature required, or by personal service. If the Respondent is NCS or an officer, Board Member, committee or sub-committee chairman or coordinator or an official, the Notice shall be also given to the General Chairman, the Administrative Vice-Chairman and the Secretary at NCS's office. The Notice shall be given as soon as practical following the conclusion of any preliminary investigation made by or on behalf of the Board of Review, but in no event later than fourteen (14) Business Days (twenty (20) Business Days if advice is sought under **Section 110.3.12A**) after the receipt of the Protest by the Chairman. The form of Notice (an example of which can be found in **Appendix B** to these Bylaws) shall include:

- (1) a statement in reasonable detail of the charges against each Respondent, or of the circumstances that are believed to require answers, explanation or clarification. A copy of the Protest received by the Board of Review, if any, shall be attached to the Notice;
- (2) a statement that the Respondent has the right to have counsel of his own choice to represent him, at his own expense, at any hearing;
- (3) a description of the type of hearing to be held. In the case of an in-person hearing, the Notice shall request each Respondent to appear before the Board of Review with counsel and witnesses, if any;
- (4) a date, time and location at which the hearing will be held. The date of the hearing shall be not less than thirty (30) days nor more than sixty (60) days after the date of transmission of the Notice;
- (5) a request that each Respondent answer in writing all of the charges set forth in the Notice. The Notice shall state that this answer is to be delivered at least ten (10) Business

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Days prior to the date of the hearing, to the Presiding Officer designated in the Notice, at the specified address, with a copy to the Protestor and the Protestor's counsel, if any, and anyone else specified in the Notice at the addresses designated in the Notice with delivery in accordance with **Section 110.10.2** and (6) a statement of the right of appellate review (including the right, if any, to a rehearing) in the event the decision is rendered against the Respondent.

C. Answer by Respondent - Each Respondent's response to the Notice and Protest shall be in writing and delivered to the Presiding Officer designated in the Notice, at least ten (10) Business Days prior to the date of the hearing, with a copy to the Protestor and his counsel and anyone else specified in the Notice at the addresses designated in the Notice. This written statement becomes the Answer under **Section 110.2.1**. The Answer shall be delivered in accordance with **Section 110.10.2**.

D. Rebuttal by Protestor - The Protestor may, but is not required to, offer a rebuttal to the Respondent's Answer. Any rebuttal shall be in writing and delivered to the Presiding Officer designated in the Notice, at least five (5) Business Days prior to the date of the hearing, with copies to each Respondent and his counsel at the addresses specified in the Answer and to anyone else specified in the Notice at the addresses designated in the Notice. This written statement becomes the Rebuttal under **Section 110.2.7**. The Rebuttal shall be delivered in accordance with **Section 110.10.2**.

E. Conduct of Hearing -

(1) Generally - Hearings shall be conducted in an orderly fashion, but without regard for the formalities of traditional court room procedures. The hearing shall be conducted in a manner conducive to the establishment of the truth and the interests of fairness, justice and the sport of swimming. The Presiding Officer is responsible for keeping the parties and their counsel, if any, focused on the issues at hand and the necessary elements of proof and for enforcing the ordinal rule that no one may speak who has not been recognized by the Presiding Officer. For hearings conducted other than entirely through the receipt of written statements, the Board of Review shall cause a recording or transcription to be made of the hearing. No record of the deliberations of the Board of Review need be kept and, if kept, shall not be available to anyone other than the members of the Board of Review, the Presiding Officer and counsel to the Board of Review.

(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 (Protestor 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 Protestor'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 Protestor 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 Protestor during the Protestor'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 110.5.1F**. 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

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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 decision shall be in writing, or in case of a decision rendered at the hearing, reduced to writing promptly, and delivered to the Protestor, each Respondent, their respective counsel, any other party to the proceeding, the General Chairman and the Secretary of NCS, the Chairman of the National Board of Review and the General Counsel of USA Swimming in accordance with **Section 110.10.2**.

.2 Emergency Hearing

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

B. Notice of Emergency Hearing - Each Respondent shall be given such notice of the hearing as time and circumstances may reasonably dictate. The notice may be oral or in writing, and shall substantially comply with the notice requirements set forth in **Section 110.2.3** insofar as the emergent nature of the issue permits.

C. Conduct of Emergency Hearing - The hearing may be conducted at any location likely to contribute to expeditious resolution of the Protest, including the site of a swimming competition, but in any event under such circumstances so as to fairly protect the right of procedural due process of the Respondent. All or some of the participants in the hearing may participate by telephone conference equipment. If at least three regular or alternate members of the Board of Review are not available due to time constraints, the Chairman, the Vice-chairman or the General Chairman is authorized to appoint one or more Individual Members to serve as the Board of Review solely for the purpose of conducting this emergency hearing. The hearing shall substantially comply with the hearing procedures set forth in **Section 110.6.1E** insofar as the emergent nature of the hearing permits.

D. Decision of Board of Review - The decision of the Board of Review shall be rendered at the time of the hearing or as soon as possible thereafter in keeping with the emergent circumstances. The decision shall include findings of facts and a statement of remedies ordered, if any, and a statement of the right to request a subsequent formal hearing. The decision shall be in writing, or in case of a decision rendered orally at the hearing, reduced to writing within ten (10) Business Days thereafter and delivered to the Protestor, the Respondent, their counsel, any other parties to the proceeding, the Chairman, the General Chairman and the Secretary of NCS, the Chairman of the National Board of Review and the General Counsel of USS in accordance with **Section 110.10.2**.

E. Right to a Subsequent Formal Hearing - If either the Protestor or the Respondent shall deliver to the Chairman a written request for a further hearing within ten (10) Business Days of the date of receipt of the written decision resulting from the emergency hearing, a formal hearing shall be held as a new proceeding in accordance with **Section 110.6.1**, as though the emergency hearing had

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not taken place. Failure to make this request in a timely manner shall preclude the aggrieved party from making an appeal as provided in **Section 110.9**.

.3 Stay of Decision Pending Appeal - The Board of Review shall have the authority and discretion, but not the duty, to stay its decision, in whole or in part, subject to specified conditions, during the time allowed to demand a further hearing after an emergency hearing, a rehearing or to appeal as provided in **Section 110.9**, with the decision going into effect automatically if those conditions occur or if no demand or appeal is filed during the allowable period or at such time as a perfected appeal is terminated without the decision being modified by the appellate authority.

.4 Extensions of Time - The general rule regarding extensions of time within which any act is required to be taken pursuant to this **Article 110** appears in **Section 110.3.11**. Nevertheless, the time within which the Notice required by **Section 110.2.3** must be transmitted may not be extended without the consent of the Protestor or the USA Swimming General Counsel.

110.7 FINALITY OF BOARD OF REVIEW DECISIONS - Except as otherwise provided in this **Article 110** with regard to re-hearings, appeals and emergency hearings or in Article Nine of the Constitution of the United States Olympic Committee and in Chapter Nine of its bylaws with respect to binding arbitration in disputes involving the rights of certain individuals to participate in competition, the decision of the Board of Review shall be final in all cases.

110.8 FULL FAITH AND CREDIT TO BOARD OF REVIEW DECISIONS - Final decisions of the Board of Review of another LSC or the National Board of Review shall, where relevant and necessary, be recognized and fully enforced by NCS. Those final decisions may not be attacked or reopened in any proceeding before the NCS Board of Review other than one seeking enforcement of that decision.

110.9 APPEAL FROM BOARD OF REVIEW DECISIONS - Except to the extent that any appeal is precluded by **Sections 110.5.2D** or **110.6.2E**, any person, including the Protestor and the Respondent, having an actual, direct interest in any matter decided by the Board of Review under this Article may appeal the decision to the National Board of Review. An appeal must be taken within thirty (30) Business Days from the date of the written notice of the decision of the Board of Review. The appeal to the National Board of Review must be in writing, timely filed with the USA Swimming Executive Director and accompanied by the appellate filing fee established by USA Swimming. Upon timely request to the Chairman of the National Board of Review and upon a showing of good cause, the time for appeal from the decision of the Board of Review may be extended.

110.10 NOTICE TO HEARING PARTICIPANTS, TRANSMISSION OF DOCUMENTS AND DETERMINATIONS OF TIMELINESS –

.1 Notice to Hearing Participants who are Members of NCS
A. NCS Members Generally - In each case, where notices or other hearing-related documents are to be delivered to a member of NCS, it shall be sufficient to deliver notice or other documents to the member's last known address in accordance with Section 117.15.

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

.2 Methods of Transmission of Hearing Related Documents – With the exception of the Notice (see **Sections 110.2.3** and **110.6.2B**), all documents transmitted pursuant to this **Article 110** shall be transmitted to each of the parties, their respective counsel, if any, the Presiding Officer and anyone else specified in the Notice. Documents shall be delivered to the persons specified at the addresses specified in the Notice or later documents or as determined in accordance with **Section 110.10**. Documents may be delivered by any of the following methods of service: by personal service, by certified or express mail, return receipt requested, by Federal Express, signature required, by electronic mail or facsimile transmission with receipt of the transmission

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confirmed orally or by other methods of transmission permitted by this paragraph.

.3 Determinations of Timeliness - The rules provided in **Section 117.1.5** shall apply in the determination of the timeliness of any notice or other action under this **Article 110**.

ARTICLE 111 - ORGANIZATION, AMENDMENT OF BYLAWS AND DISSOLUTION

111.1 NON-PROFIT AND CHARITABLE PURPOSES - As stated in **Section 101.2**, NCS is organized exclusively for charitable and educational purposes and for the purpose of fostering national or international amateur sports competition within the meaning of section 501(c)(3) of the IRS Code. Notwithstanding any other provision of these Bylaws, NCS shall not, except to an insubstantial degree, (1) engage in any activities or exercise any powers that are not in furtherance of the purposes and objectives of NCS or (2) engage in any activities not permitted to be carried on by: (A) a corporation exempt from federal income tax under such section 501(c)(3) of the IRS Code or (B) a corporation to which contributions, gifts and bequests are deductible under sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the IRS Code.

111.2 DEDICATION OF ASSETS, ETC. - The revenues, properties and assets of NCS are irrevocably dedicated to the purposes set forth in **Sections 101.2 and 111.1** of these Bylaws. No part of the net earnings, properties or assets of NCS shall inure to the benefit of any private person or any member, officer or director of NCS.

111.3 AMENDMENTS - Any provision of these Bylaws not mandated by USA Swimming may be amended at any meeting of the House of Delegates by a two-thirds vote of the members present and voting after not less than twenty (20) days written notice. Any amendments proposed without proper notice may be adopted only upon a nine-tenths majority of the members present and voting. Amendments so approved shall not take effect until reviewed and approved by the USA Swimming Legislation Sub-committee. These Bylaws shall be deemed amended ninety (90) days after the conclusion of any annual meeting of USA Swimming at which the corresponding provisions of Part Six of the USA Swimming Code of Rules and Regulations are amended (or such later effective date established in the amending USA Swimming legislation) to the extent that such amendment affects a provision required to be included herein or is itself required to be included herein, unless NCS shall have requested permission of the USA Swimming Rules and Regulations sub-committee not to have such amendment take effect with respect to these Bylaws.

111.4 DISSOLUTION - NCS may be dissolved only upon a two-thirds majority vote of all the voting members of the House of Delegates. Upon dissolution, the net assets of NCS shall not inure to the benefit of any private individual, unincorporated organization or corporation, including any member, officer or director of NCS, but shall be distributed to USA Swimming, Inc., to be used exclusively for educational or charitable purposes. If United States Swimming, Inc., is not then in existence, or is not then a corporation which is exempt under section 501(c)(3) of the IRS Code and to which contributions, bequests and gifts are deductible under sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the IRS Code, the net assets of NCS shall be distributed to a corporation or other organization meeting those criteria and designated by the House of Delegates at the time of dissolution, to be used exclusively for educational or charitable purposes.

ARTICLE 112 - INDEMNIFICATION

112.1 INDEMNITY - NCS 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 NCS, 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 NCS specified in Section 112.3 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. NCS 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.

112.2 EXCLUSION - The indemnification provided by this **Article 112**, shall not apply to any

2214 Indemnified Party whose otherwise indemnified conduct is finally determined to have been in bad
2215 faith, self-dealing, gross negligence, wanton and willful disregard of applicable laws, rules and
2216 regulations, of the USA Swimming Code, of the USA Swimming Code of Ethics or these Bylaws or
2217 who is convicted of a crime (including felony, misdemeanor and lesser crimes) involving sexual
2218 misconduct, child abuse, violation of a law specifically designed to protect minors or similar
2219 offenses, or who is found by the Board of Review or the National Board of Review to have
2220 committed actions which would be the basis for a conviction and, in each case, the otherwise
2221 indemnifiable conduct (or failure to act) was, or was directly related to, the predicate acts of the
2222 conviction or finding.

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2224 **112.3 INDEMNIFIED PERSONS** - As used in this [Article 112](#), "Indemnified Person" shall mean
2225 any person who is or was a Board Member, Board of Review Chairman, Vice-chairman,
2226 Presiding Officer or member, Group Member Representative, officer, official, coach, committee
2227 chairman or member, coordinator, volunteer, employee or agent of NCS, or is or was serving at
2228 the direct request of NCS as a director, officer, Group Member Representative, meet director,
2229 official, coach, committee chairman or member, coordinator, volunteer, employee or agent of
2230 another person or entity involved with the sport of swimming.

2231 **112.4 EXTENT OF INDEMNITY** - To the full extent permitted by law, the indemnification provided
2232 in this Article shall include expenses (including attorneys' fees, disbursements and expenses),
2233 judgments, fines, penalties and amounts paid in settlement, and, except as limited by applicable
2234 laws, these expenses shall be paid by NCS in advance of the final disposition of such action, suit or
2235 proceeding. If doubt exists as to the applicability of an exclusion to NCS obligation to indemnify,
2236 NCS may require an undertaking from the Indemnified Person obliging him to repay such sums if it
2237 is subsequently determined that an exclusion is applicable. In the case of any person engaged in
2238 the sport of swimming for compensation or other gain, if NCS determines that there is reasonable
2239 doubt as to such person's ability to make any repayment, NCS shall not be obligated to make any
2240 payments in advance of the final determination. This indemnification shall not be deemed to limit
2241 the right of NCS to indemnify any other person for any such expenses to the full extent permitted by
2242 law, nor shall it be deemed exclusive of any other rights to which any Indemnified Person may be
2243 entitled under any agreement, vote of members or disinterested directors or otherwise, both as to
2244 action in an official capacity and as to action in another capacity while holding such office.

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2246 **112.5 SUCCESSORS, ETC.** - The indemnification provided by this Article shall continue as to
2247 an Indemnified Person who has died or been determined to be legally incompetent and shall
2248 apply for the benefit of the successors, guardians, conservators, heirs, executors,
2249 administrators and trustees of the Indemnified Person.

2251 **ARTICLE 113 - ENDOWMENT FUNDS**

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2253 **113.1 ENDOWMENT FUNDS USE** - NCS may, by action of the Board of Directors or the House
2254 of Delegates, designate, receive and accept, or otherwise acquire property or funds or any
2255 interest therein in the form of set asides, gifts, grants, contributions, and testamentary transfers.
2256 NCS use of such property and funds shall be limited to expenditures of its income only for NCS
2257 exempt purposes in furtherance of its support of, or to benefit, NCS athletes and NCS programs
2258 while retaining the principal thereof as an endowment to further such purposes.

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2260 **113.2 GENERAL ENDOWMENT FUND** - NCS shall maintain a permanent General Endowment
2261 Fund. The principal of which shall be kept intact. Each year fifty percent (50%) of any increase
2262 whatsoever derived from the fund shall accrue to the principal of the Fund. The remaining fifty
2263 percent (50%) may be transferred to the General Fund and may be disbursed.

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2265 **113.3 ATHLETE TRAVEL ENDOWMENT FUND** - NCS shall maintain a permanent Athlete
2266 Travel Endowment Fund. The principal of which shall be kept intact. Each year fifty percent
2267 (50%) of any increase whatsoever derived from the fund shall accrue to the principal of the
2268 Fund. The remaining fifty percent (50%) may be transferred to the Athlete Travel Fund and may
2269 be disbursed.

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2271 **ARTICLE 114 - PARLIAMENTARY AUTHORITY**

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114.1 ROBERT'S RULES - The rules in the then current edition of Robert's Rules of Order Newly Revised shall govern NCS and any of its constituent or component parts, committees, etc., in the conduct of meetings in all cases to which they apply and in which they are not inconsistent with these Bylaws and any special rules of order NCS, the House of Delegates, the Board of Directors or its divisions, committees, etc., may adopt or as set forth in the next paragraph.

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114.2 VOICE AND VOTE - Where in these Bylaws an Individual Member is described as having voice but not the right to vote, that Individual Member may participate in debate and ask pertinent questions in the discretion of the presiding officer, but may not make or second motions, orders or other proposals.

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114.3 SPECIAL RULES OF ORDER - This Section reserved for future use.

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ARTICLE 115 - PERMANENT OFFICE AND STAFF

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115.1 OFFICE - NCS may maintain an office in the Territory for the storage and maintenance of the books and records and equipment of NCS and for other purposes as may be determined by the House of Delegates or the Board of Directors in accordance with these Bylaws.

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115.2 STAFF - NCS may retain paid staff at the NCS Office as the Board of Directors may determine to be appropriate or necessary. The staff shall be under the general supervision of the General Chairman and the Administrative Vice-chairman. With respect to delegated functions of the officers, committee chairmen and coordinators, the staff shall be responsible to the respective officer, committee chairman or coordinator. The powers and duties of the paid staff shall be established in NCS Policies and Procedures Manual or by resolution of the Board of Directors or by delegation approved by the Personnel Committee.

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115.3 APPROPRIATIONS - The Budget Committee may include in its proposed budget a line item for the costs of NCS Office inclusive of the compensation and benefits costs of the paid staff. Once appropriated by the House of Delegates, the Personnel Committee shall be responsible, together with the General Chairman, for the administration of those funds. The compensation of the staff shall to the extent possible be treated as confidential.

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ARTICLE 116 - MISCELLANEOUS

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116.1 EFFECT OF STATE LAW CHANGES (SEVERABILITY) - If any portion of these Bylaws shall be determined by a final judicial decision to be, or as a result of a change in the law of the State of North Carolina become, illegal, invalid or unenforceable, the remainder of these Bylaws shall continue in full force and effect.

116.2 FISCAL YEAR - The fiscal year of NCS shall correspond to the calendar year.

116.3 TAX STATUS; INTERPRETATION OF BYLAWS - It is intended that NCS shall have and continue to have the status of an organization which is exempt from federal income taxation under section 501(c)(3) of the IRS Code and to which contributions, bequests and gifts are deductible for federal income, estate and gift tax purposes under sections 170(c)(2), 2055(a)(2) and 2522(a)(2) of the IRS Code, respectively. Similarly, it is intended that NCS shall have that or similar status under the applicable state and local laws as will exempt it from taxation to the maximum extent possible to the extent not contrary to applicable federal requirements. These Bylaws shall be interpreted accordingly.

116.4 NCS SEAL - The NCS corporate seal shall be circular in form and shall bear the name of NCS and words and figures denoting its organization under the laws of the State of North Carolina and the year thereof and otherwise shall be in such form as may be required the laws of the State, the Articles of Incorporation or as shall be approved from time to time by the Board of Directors.

ARTICLE 117 - DEFINITIONS, CONVENTIONS AND RULES OF INTERPRETATION

117.1 CONVENTIONS AND RULES OF INTERPRETATION -

.1 Terms Generally - Whenever the context may require, any pronoun or official title shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The singular shall include the plural and the plural shall include the singular as the context may require. Where the context permits, the term "or" shall be interpreted as though it were "and/or." Captions have been used for convenience only and shall not be used in interpreting the Bylaws.

.2 Capitalized Titles - Capitalized titles, such as Secretary or Treasurer, when appearing alone shall refer to NCS positions and not to USA Swimming or another organization.

.3 Principal Rule of Interpretation - The principal substantive rule of interpretation applicable to these Bylaws is set forth in **Section 116.3**.

.4 Rule of Interpretation Applicable to Article 110 - **Article 110** shall be interpreted generously in order to achieve the intent expressed in **Section 110.1**.

.5 Notice Deemed Given; Writings Deemed Delivered; Last Known Address

A. Notice by Mail - Notice given and other writings delivered by first class mail, postage prepaid, and addressed to the last address shown on the records of NCS shall be deemed given or delivered upon the postmark date for all purposes under these Bylaws.

B. Notice by Fax or Email - Notice given and writings delivered by facsimile or electronic mail shall be deemed given or delivered upon oral, telephonic, electronic or written confirmation of recipient for all purposes under these Bylaws.

C. Notice by Telephone - Notice given by telephone shall be deemed given only when actually transmitted to the person entitled thereto for all purposes under these Bylaws. (Thus, for example, a message left on an answering machine or similar equipment or with a person other than the intended recipient shall not be notice given prior to the actual receipt by the intended recipient.)

D. Last Known Address - For all purposes under these Bylaws, the last known address of a member of NCS shall be the address given in the latest application for registration or membership in NCS and USA Swimming filed with the Membership/Registration Coordinator; or the address given in a written notice of change of residence filed with that Coordinator. In all other cases the records

maintained by the Secretary of NCS shall be used to ascertain the last known address.

.6 Time Period Convention - In computing time periods established by these Bylaws, the initial time period (days or hours) shall not be included but the last period shall be included.

.7 Waiver of Notice Convention - Untimely or insufficient notice for any meeting held under the authority of these Bylaws shall be considered to have been waived if a member attends or participates in the meeting to which such notice referred or to which notice was lacking without, at the earliest opportunity, raising an objection of untimely or insufficient notice having been given for such meeting. If the member is a Group Member Representative, then the relevant Group Member shall be treated as having waived the untimely or insufficient notice to the same extent.

117.2 DEFINITIONS - When used in these Bylaws, the following terms shall have the meanings indicated in this Section, and the definitions of such terms are equally applicable both to the singular and plural forms thereof. Where a cross reference to another Section of the Bylaws appears within a definition, the definition is qualified by the more complete definition found in that Section. Additional definitions applicable solely to **Article 110** are set forth in **Section 110.2**. For an additional definition applicable solely to **Article 112**, see **Section 112.3**:

.1 "**Active Individual Member**" shall mean an individual other than a Coach Member, or an Athlete Member who is a trainer, manager, official, meet director, marshal, Board Member, At-Large House Member, officer or committee chairman or member, coordinator, or a Group Member Representative or alternate and any other individual actively participating in the affairs of NCS or the sport of swimming and who is in good standing as an Individual Member of NCS and USA Swimming. (See **Section 102.1.2A**.)

.2 "**Affiliated Group Member**" shall mean any organization which supports the sport of swimming and the objectives and programs of NCS and USA Swimming, but which does not have Athlete Members and Coach Members, which is in good standing as a Group Member of NCS and USA Swimming, and which is not a Club Member of NCS. (See **Section 102.1.1B**.)

.3 "**Affiliated Group Member Representative**" shall mean the individual appointed to represent an Affiliated Group Member in the House of Delegates. See **Section 104.1.1**.

.4 "**Article**" shall mean the principal subdivisions of these Bylaws.

.5 "**Articles of Incorporation**" shall mean the document filed with the Secretary of State of the State of North Carolina pursuant to which NCS was formed.

.6 "**At-Large House Member**" shall mean the Individual Members appointed by the General Chairman to be members of the House of Delegates. (See **Section 104.1.2**.)

.7 "**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 NCS and USA Swimming. (See **Section 102.1.2A**.)

.8 "**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 104.1.3**.

.9 "**Board Member**" shall mean a member of the Board of Directors. Where the contexts requires, the term not include the Athlete Representatives or the Coach Representatives.

.10 "**Board of Directors**" shall mean the Board of Directors of NCS.

- .11 "**Board of Review**" shall mean the investigative and judicial body of NCS established pursuant to **Section 110.3**.
- .12 "**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.
- .13 "**Bylaws**" shall mean these bylaws as adopted by, and in effect for, NCS.
- .14 "**Club**" shall mean an organization that has athletes and coaches engaged in the sport of swimming.
- .15 "**Club Member**" shall mean any club or other organization which is in good standing as a Group Member of NCS and USA Swimming 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 NCS and USA Swimming. (See **Section 102.1.1A**.)
- .16 "**Club Member Representative**" shall mean the individual appointed to represent a Club Member in the House of Delegates pursuant to **Section 104.1.1**.
- .17 "**Club Safety Coordinator**" shall mean the Active Individual Member designated by each Club Member to serve as its liaison with NCS and USA Swimming concerning safety matters. (See **Section 102.2.3**.)
- .18 "**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 NCS and/or USA Swimming and who is in good standing as a member of NCS and USA Swimming. (See **Section 104.1.4**.)
- .19 "**Coach Representative**" shall mean the Coach Member elected to represent the coaches in the House of Delegates and the Board of Directors. (**Section 104.1.4**.)
- .20 "**FINA**" shall mean the Federation Internationale de Natation Amateur, the international governing body for the sport of swimming.
- .21 "**Group Members**" shall mean Club Members and Affiliated Group Members.
- .22 "**Group Member Representative**" shall mean the individual appointed to represent a Group Member in the House of Delegates. See **Section 104.1.1**.
- .23 "**House of Delegates**" shall mean the House of Delegates of NCS as established by **Article 104** of these Bylaws.
- .24 "**Immediate Past General Chairman**" shall mean the individual who is the immediate past General Chairman of NCS, except when that person became immediate past General Chairman by virtue of the House of Delegates taking action pursuant to **Section 104.10**, the Board of Directors taking action pursuant to **Section 105.5.10** 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 first term of the successor General Chairman. 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.
- .25 "**Individual Members**" shall mean Athlete Members, Coach Members, Active Individual Members, and Life Members.

.26 "**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.

.27 "**Life Member**" shall mean any individual who is a life member of USA Swimming and NCS 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 NCS and USA Swimming. (See [Section 102.1.2D.](#))

.28 "**Local Swimming Committee**" or "**LSC**" shall have the meaning ascribed thereto in the USA Swimming Code. NCS is a Local Swimming Committee.

.29 "**Member**" shall mean a Group Member or an Individual Member.

.30 "**National Board of Review**" shall mean the Board of Review of USA Swimming established pursuant to Part Four of the USA Swimming Code. Where the context requires, a reference to the National Board of Review shall include a reference to the USA Swimming Board of Directors when that body is acting upon an appeal from the National Board of Review.

.31 "**Nominating Committee**" shall mean the committee of the House of Delegates charged with nominating candidates for elective offices of NCS. (See [Section 104.8.](#))

.32 "**Policies and Procedures Manual**" shall mean the policies and procedures manual of NCS, as amended, adopted by the Board of Directors or the House of Delegates. The reference shall include the relevant meeting minutes, orders and resolutions of NCS.

.33 "**Parliamentary Authority**" shall mean the authority and any special rules of order designated in [Article 114.](#)

.34 "**Section**" shall mean the subdivisions of the Articles of these Bylaws.

.35 "**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 104.1.3.](#)

.36 "**Senior Coach Representative**" shall mean the Coach Representative senior in term of office. (See [Section 104.1.4.](#))

.37 "**Standing Committee**" shall mean a committee of NCS listed in [Sections 107.1, 107.2 or 107.3.](#)

.38 "**Territory**" shall mean the geographic territory over which NCS has jurisdiction as a Local Swimming Committee. (See [Section 101.3.](#))

.39 "**USA Swimming**" shall mean the Colorado Springs-based not-for-profit corporation which is the national governing body for the United States for the sport of swimming.

.40 "**USA Swimming Board of Directors**" shall mean the Board of Directors of USA Swimming.

.41 "**USA Swimming Code**" shall mean the code of rules and regulations, as adopted and amended by USA Swimming.

.42 "**USA Swimming House of Delegates**" shall mean the House of Delegates of USA Swimming.

.43 "**USA Swimming Rules and Regulations Committee**" shall mean the Rules and Regulations Committee of USA Swimming created pursuant to Article 512 of Part Five of the USA Swimming Code.

.44 “**USA Swimming Rules and Regulations Sub-committee**” shall mean the sub-committee of the Legislation and Redistricting Committee of USA Swimming created pursuant to Section 6202 of Part Six-C of the USA Swimming Code.

.45 “**NCS**” shall mean the North Carolina not-for-profit corporation to which these Bylaws pertain.

.46 “**NCS Office**” shall mean the permanent office of NCS maintained in accordance with [Article 113, 115](#).

APPENDICES TO THE NCS BYLAWS

APPENDIX A - QUESTIONS AND ANSWERS ABOUT RESOLVING DISPUTES

INTRODUCTION

The form of the LSC Bylaws was revised by USA Swimming in September of 1995. However, the basic structure used for resolving disputes has not changed. Members of USA Swimming who disagree with a decision or an action of taken by a meet official or any other LSC officer or who have a swimming-related dispute with another member may appeal those decision, or may submit those disputes, for resolution to the LSC Board of Review (formerly, the Review Section). The Board of Review is responsible for resolving these disputes quickly, fairly and with **due process**. The purpose of this Appendix is to help with the details of preparing and filing protests and appeals, and handling a protest as a Board of Review member. Violation and interpretations of the rules and regulations of ~~USS~~ USA Swimming and the LSC can have serious consequences or involve relatively minor matters. The consequences can range from being barred from Olympic competition for drug use to whether a club should be penalized for being slow in distributing final meet results. Yet, to the people involved, each dispute, each incident is just as important as the other. Because serious matters are being handled by the Board of Review, the Bylaws have been expanded and made more comprehensive. Many of the sections may appear to be written in "legalese," but that was done to insure that--as much as possible--they would be interpreted uniformly, consistently and correctly. While the language may be technical, the ideas behind the Bylaws' Board of Review provisions are simple and basic. Anyone with a problem should get a fair, impartial hearing and have the problem resolved promptly and with **due process**.

The rules and procedures in [Article 610](#) of the Bylaws are meant to provide:

- ◆ a quick and effective remedy for the Protestor and the Respondent;
- ◆ a hearing by objective unbiased persons, at first a panel of the elected members of the Board of Review, consisting of at least three people ([Article 610.5.1 B](#));
- ◆ several levels of appeal are provided; from the initial Board of Review panel to a rehearing by all the members of the Board of Review (or at least seven people, [Section 610.5.2](#)); from a rehearing decision to a National Board of Review ([Section 610.9](#)); to an appeal to the United States Olympic Committee under its Constitution in cases where an athlete is denied the right to compete in international competition.

COMMON QUESTIONS ASKED ABOUT PROTESTS AND THE BOARD OF REVIEW PROCESS

WHAT IS DUE PROCESS?

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

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

WHAT KIND OF PROTESTS CAN BE DECIDED BY THE LSC BOARD OF REVIEW?

The responsibility of the Board of Review is broad but does not cover every possible dispute that might

come up. If a decision is made which affects your ability to compete in swim meets or how you place in swim meets and you think the decision is wrong you may appeal to the Board of Review. If you are prevented from participating in the administration of the sport of swimming or being an official you may appeal to the Board of Review. If a decision is made by the LSC that affects your ability to coach swimmers you may appeal to the Board of Review. There are some matters that should be submitted directly to the National Board of Review. Read Sections 610.4.1, 610.4.2 and 610.1 and Sections 401.2 and 401.3 of Part Four of the USA Swimming Code to determine where your appeal should go. Remember that the Board of Review does not involve itself in disputes involving the administration of individual clubs unless it affects the ability of members to participate in competition.

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

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

HOW DO I CONDUCT A BOARD OF REVIEW HEARING?

The new Bylaws have expanded the sections that explain hearing procedures. The By-Laws now provide a step by step outline of the steps to be taken and procedures to be used when a protest occurs (**Sections 610.5 and 610.6**). The purpose of the Article remains the same, *i.e.*, to give **due process** to **any** individual or **any** entity, club or organization participating in **any** activity of any kind of the LSC or USA Swimming - not just athletes, but coaches, officers, committee chairmen and members, officials, clubs and all classes of members as well.

The process can be summarized as follows:

- A. The Protestor must give a written protest to the Chairman of the Board of Review. (See **Section 610.6.1 A.**)
- B. The Chairman of Board of Review **may** have an investigation made to see if the dispute can be resolved before a hearing. It is not unusual to have disputes cleared up when an impartial party listens to both sides and tries to mediate a dispute. This kind of informal resolution is to be encouraged.
- C. A written Notice must be prepared and delivered by the Chairman to the Respondent. (See **Section 610.6.1 B** and the suggested form of Notice which is in **Appendix B.**)
- D. Written statements of position may be filed by all parties to the appeal. (See **Section 610.6.1 C and D.**)
- E. A hearing must be scheduled by the Chairman to take place within 74 days from the date when the Chairman of the Board of Review received the Protest.
- F. A hearing may be held (if **everyone** involved agrees the protest can be considered on the written statements that have been submitted without a formal hearing). Use common sense in conducting the hearing. (See **Sections 610.5.1 D and 610.6.1 E.**) Make all parties feel that they have a fair chance to state their position and that the Board has an open mind as it listens to their position. In all events **give the athlete the benefit of the doubt!**
- G. The Board of Review must decide the matter within ten (10) Business Days of the conclusion of the hearing. (If time is not critical, it may be advantageous to delay the decision for a few days after the hearing to give full consideration to all the facts presented in a hearing rather than making a ruling immediately upon conclusion of the hearing.)
- H. The Board must send copies of its decision to the parties involved and certain administrators. See Section 310.6.1 F of Part Three of the USA Swimming Code and **Section 610.6.2 D** of the Bylaws as to who must get copies of the decision.
- I. The parties must be given a statement telling them what they must do to appeal the Board of Review's decision and how long they have to appeal.

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

First, you should review the meet information to see if it provides for any kind of appeal such as the Eligibility Jury provided for at the National Championships. (Article 206.5, Part Two of the USA Swimming Code.) If you still believe your swimmer is being improperly kept out of the meet you should ask for an emergency

hearing from the Board of Review. The Bylaws give the Board of Review a great deal of flexibility in handling emergency situations. Get on the telephone to the Chairman of the Board of Review or the LSC General Chairman and make arrangements to set up an emergency hearing under **Section 610.6.2** of the Bylaws.

The Federal law which created National Sports Governing Bodies such as USA Swimming states that an athlete cannot be suspended from competition, **even temporarily**, without a hearing. Members of the Board of Review should keep in mind their responsibility to conduct emergency hearings whenever they are at a swim meet and should alert the Meet Manager of their presence. The Chairman of the Board of Review should always make arrangements in advance to see that a panel can be available at championship meets. A meeting at the swim meet or an exchange of information by telephone and fax can be arranged to permit a timely decision even if the athlete must compete under protest. (See **Section 102.11** of Part One of the USA Swimming Code.) After the meet is concluded, a full formal hearing may be conducted at the request of the Protestor or the Respondent.

APPENDIX B - FORM OF BOARD OF REVIEW NOTICE

SAMPLE NOTICE OF HEARING UNDER SECTION 610.6.1 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 USA 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 Protestor's name and address and the name and address of Protestor's counsel, if any]. Attached hereto is a copy of the Protest filed with the XX 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 Protestor'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 610.6.1 C and 610.10.2**.)

HEARING DATE, TIME AND PLACE:

The initial date set for the formal [or other type - see **Section 610.5.1 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 the XX Swimming, Inc. Board of Review is established, and this hearing shall be held pursuant to, **Article 610** of the Bylaws of XX Swimming, Inc. A copy of **Article 610** is enclosed for your information.

HEARING BODY:

The hearing body will be the three member panel of the Board of Review of XX Swimming, Inc. [insert names of members of the Board of Review designated to serve on this panel] or such other persons as are appointed pursuant to the Bylaws of XX Swimming, Inc.

[This should be rephrased if the initial panel is of more than three or is the full Board of Review.]

POSSIBLE PENALTIES:

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

610.4.5.)

APPEAL:

If you are dissatisfied with the decision, you must file a request for a rehearing before the full Board of Review within ten (10) Business Days of your receipt of the decision, unless the initial panel was the full Board of Review or had seven members. (See **Section 610.5.2**) The request must be filed with the Chairman of the Board of Review [\[here give name and address\]](#). [\[If your LSC has imposed a filing fee applicable to a request for a rehearing, this should be noted here.\]](#) Your request must be granted if the decision was rendered by a panel of fewer than seven members and the decision was not unanimous. Otherwise the Board of Review may either grant or deny a rehearing in its discretion. If the decision is not subject to a request for a rehearing, a rehearing request is denied or the decision is the decision on a rehearing, an appeal may be made to the National Board of Review. The appeal must be filed with the USA Swimming Executive Director along with an appellate filing fee of \$50.00 within thirty (30) Business Days after the postmark date of written notice of the decision of the Board of Review. (**Section 610.9.**) The address of the USA Swimming Executive Director is USA Swimming, One Olympic Plaza, Colorado Springs, CO 80909-5770.

GENERAL INFORMATION:

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

Dated [\(Insert date on which notice is mailed\)](#)

Signed _____

Chairman of the Board of Review

[\[If the notice is signed by the designated Presiding Officer, the title line should be changed accordingly.\]](#)