

To the extent these bylaws conflict with applicable law, applicable law prevails .

PACIFIC SWIMMING BYLAWS

ARTICLE 13

ADMINISTRATIVE REVIEW BOARD

13.1 INTRODUCTION - USA Swimming was organized as the National Governing Body for the sport of swimming under the Amateur Sports Act of 1978, as amended by the Ted Stevens Olympic and Amateur Sports Act of 1998, both federal laws. These laws require 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 2.2 and the National Board of Review procedures, pursuant to Policy 26.0 of the USA Swimming Operating Policy Manual, are intended to provide 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, Pacific Swimming has established the Administrative Review Board to hear complaints and appeals regarding administrative matters within Pacific Swimming which do not rise to the level of Code of Conduct violations and are not appeals of sanction decisions. The Administrative Review Board shall have no jurisdiction to hear complaints regarding conduct that may violate the USA Swimming Code of Conduct or otherwise violate the policies, procedures, rules and regulations adopted by USA Swimming, or conduct that may bring USA Swimming, Pacific Swimming or the sport of swimming into disrepute. This Article, together with the National Board of Review procedures, pursuant to Policy 26.0 of the USA Swimming Operating Policy Manual, is intended to provide a fair hearing before a group of independent and impartial people. This Article and the National Board of Review procedures, pursuant to Policy 26.0 of the USA Swimming Operating Policy Manual shall be construed accordingly.

13.2 ADMINISTRATIVE REVIEW BOARD ORGANIZATION -

- .1 Establishment - The Administrative Review Board of Pacific Swimming shall be independent and impartial.
- .2 Members - The Administrative Review Board shall have at least three (3) regular members, with a sufficient number of Athlete Representatives to constitute at least 20% of the voting membership. At least three members of the Administrative Review Board shall hear each case, with a sufficient number of Athlete Representatives to constitute at least twenty percent (20%) of its membership. No hearing shall proceed without the required athlete representation. The House of Delegates may increase the number of regular or three (3) 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 biennially elect regular and alternate members of the Administrative Review Board:
 - B. Term of Office - The term of office shall be two (2) years. Each member and alternate member shall assume office upon election and shall serve until a successor takes office.

- C. Eligibility - Each regular and alternate member of the Administrative Review Board shall be an Individual Member of Pacific Swimming and USA Swimming. In no case shall members of the Board of Directors serve on the Administrative Review Board.
- .4 Chair Elected by Board; Other Officers - The Chair of the Administrative Review Board (the “Chair”) who must be a regular member, shall be elected biennially by a majority vote of the regular members of the Administrative Review Board. The Chair shall biennially appoint a Vice-Chair and a Secretary of the Administrative Review Board, each of whom must be regular members.
- .5 Meetings - The Administrative Review Board shall meet for administrative purposes as necessary, to elect the Chair, to adopt rules and procedures and to conduct other business as may be helpful or necessary to achieve the purposes of the Administrative Review Board and efficiently exercise its duties and powers. Other meetings may be called by the Chair or any two regular members. When meeting for administrative purposes, Section 7.19 shall apply to the Administrative Review Board.
- .6 Participation Through Communications Equipment - Members of the Administrative Review Board may participate in a meeting or hearing of the Administrative Review Board, 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 Administrative Review Board shall be fifty percent (50%) of its regular members.
- .8 Resignations - Any regular or alternate member of the Administrative Review Board may resign by submitting a written resignation to the Chair, the General Chair 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 Determination of Vacancy or Incapacity - The determination of when an office becomes vacant or an officer becomes incapacitated shall be in accordance with 6.9.
- .10 Substitutions for Member - In the event that a regular member of the Administrative Review Board is unable or unwilling to promptly act for any reason, recuses herself or himself or is disqualified in any particular circumstance, the Chair (or, if the person so unable or unwilling to act or recused or disqualified is the Chair, the Vice-Chair; or failing that, the General Chair) shall appoint an alternate member to act in the regular member’s place in respect of that circumstance.

13.3 GENERAL -

- .1 Administrative Powers - The Administrative Review Board shall have the powers and the duty to:
 - A. administer and conduct the affairs and achieve the purposes of the Administrative Review Board,
 - B. establish policies, procedures and guidelines,
 - C. elect the Chair,
 - D. call regular or special meetings of the Administrative Review Board,
 - E. retain attorneys, agents and independent contractors and employ those persons which the Administrative Review Board may determine are appropriate, necessary or helpful in the administration and conduct of its affairs, and
 - F. take such action 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 Administrative Review Board shall have the power and the duty to promulgate reasonable rules and procedures consistent with the corporation laws of Pacific Swimming with respect to any matter within its jurisdiction or appropriate, necessary or helpful in the administration and conduct of its affairs. Such rules and procedures shall have the same force and effect as if they had been adopted as part of these Bylaws.

- .3 Exercise of Powers and Decisions - Except for authority and power granted to the Chair, the exercise of the authority and powers of the Administrative Review Board and the decision of matters which are the subject of a hearing shall be decided by a majority vote of the Administrative Review Board. The views of any dissenters shall be included in the record of the proceeding if requested by the dissenters. The exercise of the Administrative Review Board's authority and power shall be solely in its discretion and the interests of justice and the sport of swimming.

- .4 Timeliness of Petition - The Administrative Review Board need not exercise its jurisdiction with respect to a complaint 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 complaint is received. A determination not to exercise its jurisdiction as a result of the untimeliness of a complaint may be made by the Chair alone and may be the subject of a request for rehearing and, thereafter, appeal to the National Board of Review in accordance with the National Board of Review procedures, pursuant to Policy 26.0 of the USA Swimming Operating Policy Manual.