

BYLAWS  
OF  
NEW ENGLAND SWIMMING, INC. (NESI)  
LOCAL SWIMMING COMMITTEE (LSC)  
OF  
UNITED STATES SWIMMING, INC. (USS)  
MAY 2006

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

- 1.1 NAME – The name of the corporation shall be New England Swimming, Inc. (NESI)
- 1.2 OBJECTIVES – The objectives and primary purpose of the NESI shall be the education, instruction and training of individuals to develop and improve their capabilities in the sport of swimming. NESI shall promote swimming for the benefit of swimmers of all ages and abilities, in accordance with the standards, rules, regulations, policies and procedures of INA, USS, and NESI and its Articles of Incorporation.
- 1.3 GEOGRAPHIC TERRITORY – The geographic Territory of NESI is the states of New Hampshire, Vermont, Rhode Island, and Massachusetts.
- 1.4 JURISDICTION – NESI shall have jurisdiction over the sport of swimming as delegated to it as a Local Swimming Committee by USS to conduct swimming programs consistent with NESI's objectives and those of USS and to sanction, approve, observe and oversee competitive swimming events within the Territory and to conduct competitive swimming events within the Territory, its Region and its Zone (as those terms are defined in Sections 703.3 and 704.2 of Part Seven). NESI shall discharge faithfully its duties and obligations as a Local Swimming Committee of USS in accordance with these Bylaws, the USS Code and all applicable policies and procedures.

**ARTICLE 2**  
**MEMBERSHIP**

- 2.1 MEMBERS – The membership of NESI shall consist of the following:
  - .1 GROUP MEMBERS – Group Members are organizations operating in the Territory which have, upon application, been granted membership in USS and NESI and paid the fees established by USS and NESI pursuant to Article 3. An organization may be denied membership by the Membership Coordinator or the Board of Directors for failure to satisfy the criteria for membership or for any reason for which a Group Membership could be terminated. Any denial of membership may be appealed to the Board of Review. An organization's status as Group Member is subject to its continued satisfaction of the criteria for membership and compliance with its responsibilities under these Bylaws, the USS Code, the rules, regulations, policies, procedures and codes of conduct and ethics of NESI and USS and may be terminated by a decision of the Board of Review or the National Board of Review. Except for Affiliated Group Members, Group Members in good standing shall be entitled to participate in the program of swimming conducted by NESI, and competitions sanctioned or approved by USS, in accordance with Section 9.2.
    - A. Club Members – A Club Member is an organization which is in good standing as a Group Member of NESI and USS, has athletes and coaches and participates in

the sport of swimming. All athletes and coaches of the organization must be Individual Members in good standing of NESI and USS.

- B. Affiliated Group Members – An Affiliated Group Member is an organization which supports the sport of swimming and the objectives and programs of NESI and USS which is in good standing as a Group Member of NESI and USS, but which does not have athletes and coaches who all are Individual Members of NESI and USS.
- C. Seasonal club members. (Reserved for future use)

.2 INDIVIDUAL MEMBERS – Individual Members are individuals involved in the sport of swimming in the Territory who have, upon registration, been granted membership in USS and NESI and paid the dues established by USS and NESI pursuant to Article 3. An individual may be denied membership by the Membership Coordinator or by the Board of Directors for failure to satisfy the criteria for membership or for any reason for which an Individual Membership could be terminated. Any denial of membership may be appealed to the Board of Review. An individual's status as an individual member is subject to the Individual Member's continued satisfaction of the criteria for membership and compliance with the Individual's responsibilities under these Bylaws, the USS Code, the rules, regulations, policies, procedures and codes of conduct and ethics of NESI and USS and may be terminated by a decision of the Board of Review of the National Board of Review. Individual Members in good standing shall be entitled to participate in the program of swimming conducted by NESI, and competitions sanctioned or approved by USS, in accordance with Section 9.1.

- A. Athlete Members – An Athlete Member is an individual who participates or competes in the sport of swimming and is in good standing as an Individual Member of NESI and USS.
- B. Coach Members – A Coach Member is an individual, whether or not affiliated with a Group Member, who has satisfactorily completed all safety and other training required by NESI and/or USS and who is in good standing as an Individual Member of NESI and USS. Any individual desiring to act in any coaching capacity at any competition sanctioned by USS must be a Coach Member in good standing of NESI and USS.
- C. Active Individual Members – An Active Individual Member is 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, coordinator, or committee chairman or committee member of NESI or a Group Member Representative or alternate and any other individual desiring to participate in the sport of swimming and who is in good standing as an Individual Member of USS and NESI.
- D. Seasonal athlete members. (Reserved for future use.)

- E. Life Members – A Life Member is an individual who is a life member of USS 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 NESI and USS.
- .3 MEMBERSHIP A PRIVILEGE NOT A RIGHT – Membership in NESI and USS is a Privilege and shall not be interpreted as a right. Membership may be terminated by the Board of Review or the National Board of Review for any violation of a member’s responsibilities under Section 2.2, for any of the reasons set forth in Section or for any other reason determined by the Board of Review or National Board of Review to be in the best interests of the sport of swimming, USS or NESI.

## 2.2 MEMBERS’ RESPONSIBILITIES

- .1 COMPLIANCE – Each Group and Individual Member shall abide by the codes of conduct and ethics, policies, procedures, rules and regulations adopted by USS and NESI, including its obligations and responsibilities set forth in these Bylaws. Each Group and Individual Member shall not take or allow to be taken, any action, or conspire with or instigate any other person to take or allows to be taken, any action which could bring the sport of swimming, NESI or USS into disrepute. By applying for and accepting membership in NESI and USS, each Individual Member agrees to so abide and represents, except to the extent disclosed to NESI and USS, that he or she has never been convicted of a crime involving sexual misconduct, child abuse, violation of a law specifically designed to protect minors, or similar offenses, or to have been found by a Board of Review or the National Board of Review to have committed actions which would be the basis for a conviction and that she or he has never acted in a manner which might bring into disrepute NESI, USS or the sport of swimming.
- .2 RESPONSIBILITY FOR INFRACTIONS – A Group Member may be held responsible for infractions of the policies, procedures, rules, regulations or codes of conduct or ethics adopted by USS or NESI, including its responsibilities as set forth in these Bylaws. Infractions of a Group Member include those committed or allowed to happen by its members, representatives, officials or coaches or by athletes who are competing as representatives of the Group Member or who are competing with the Group Member as unattached swimmers. Also included are infractions committed or allowed to happen by a person instigated by the Group Member or with whom the Group Member through any of those individuals conspired. Any Individual Member may be held responsible for any infractions committed or that were allowed to happen by the Individual Member. Also included are infractions committed or allowed to happen by a person instigated by the Individual Member or with whom the Individual Member conspired.
- .3 CLUB SAFETY COORDINATOR – Each Club Member shall appoint an Active Individual Member to be a Club Safety Coordinator. The Club Safety Coordinator shall be Responsible for disseminating safety education information received from USS and NESI to the Club Member’s athletes, coaches and other members and shall make recommendations to the Club Member concerning safety policy and its implementation The Club Safety Coordinator shall make any reports requested by NESI’s Safety Coordinator.

## ARTICLE 3 DUES AND FEES

- 3.1 CLUB MEMBERS – Every Club Member shall pay an annual fee consisting of a national club fee established by USS and a local club fee established by NESI, together with any other charges, fees, etc. as may be established by NESI.
- 3.2 AFFILIATED GROUP MEMBERS – The Board of Directors shall establish the annual membership Fees and any other charges, fees, etc., for Affiliated Group Members.
- 3.3 ATHLETES – Each Athlete Member shall pay an annual fee consisting of a national fee established by USS and a local fee established by NESI.
- 3.4 COACHES – Each Coach Member shall pay and annual fee consisting of a national fee established by USS and a local fee established by NESI, together with any other charges, fees, etc. as may be established by NESI.
- 3.5 ACTIVE INDIVIDUAL MEMBERS – Each Active Individual Member shall pay an annual fee consisting of a national fee established by USS and a local fee established by NESI, together with any other charges, fees, etc. as may be established by NESI.
- 3.6 Life Members. The Board of Directors shall establish the annual or other membership fees, if any, and any other charges or fees, etc. for Life Members.
- 3.7 SANCTION, APPROVAL AND OTHER FEES
  - .1 SANCTION AND APPROVAL FEES – The Board of Directors shall establish reasonable fees, procedures, and documentation required of an applicant for a sanction or approval for, or observation of, a swimming competition to be conducted within the Territory.
  - .2 SERVICE CHARGES – In addition to, or in place of, a sanction or approval fee, the Board of Directors may establish a reasonable service charge consistent with the nature of the event. For example, the service charge may be a flat amount, an amount related to the number of events swum, the number of individual swims, the number of athletes entered, the cost of equipment and pool time provided, a percentage of receipts or profits or a combination of one or more of these or other basics.
  - .3 PAYMENT – Each applicant for a sanction, approval or observation shall submit with its application the fees and any service charges specified by NESI. If any of the sanction or approval fees or service charges are due at a time following the submission for sanction or approval, the applicant shall promptly pay those fees or service charges to NESI when due in accordance with NESI's fee schedule.
- 3.8 FAILURE TO PAY
  - .1 GROUP, COACH AND ACTIVE INDIVIDUAL MEMBER OBLIGATIONS – The failure of a

Group Member, Coach Member, or Active Individual Member to pay dues, fees, service Charges, fines or penalties imposed by NESI or USS, within the time prescribed, as Evidenced by a final decision of the Board of Review or the National Board of Review or by a court of law, shall preclude the delinquent member from (a) participating in events sanctioned or approved by USS, (b) participating in any capacity in the affairs of USS, NESI or any other LSC or (c) serving as a Club Safety Coordinator, Group Member Representative, coach, manager, official, trainer or in any other capacity with any Club Member or with any group member of any other LSC.

- .2 ATHLETE MEMBER OBLIGATIONS – The failure of an Athlete Member to satisfy any financial obligations to USS, NESI or their former LSCs, 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 USS, (b) obtaining an OVC or other reportable time achieved in events swum at any USS sanctioned, approved or observed meet, (c) participating in any capacity in the affairs of USS, NESI 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 a final Board of Review decision against an Individual Member for non-payment 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 USS, (b) obtain an OVC or other reportable time in events swum at any USS approved or observed meet, (c) participate in any capacity in the affairs of USS, NESI 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 non-payment 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 USS and (b) participating in any capacity in the affairs of USS, NESI 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.

## **ARTICLE 4 HOUSE OF DELEGATES**

- 4.1 MEMBERS – The House of Delegates of NESI shall consist of Group Member Representatives,

the Athlete Representatives, the Coach Representatives, the Board Members designated in Section 5.1, and the At-Large House Members.

- .1 GROUP MEMBER REPRESENTATIVES – Each member in good standing shall appoint from its membership a Group Member Representative and one or more alternates. The appointment shall be in writing, addressed to the Secretary of NESI and duly certified by the chief executive officer or secretary of the appointing Group Member. The appointing Group Member may withdraw its Group Member Representative or one or more of its alternates and substitute a new Group Member Representative or new alternate by written notice, addressed to the Secretary of NESI and signed by the chief executive officer or secretary of the appointing Group Member.
  - .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 by the Board of Directors, one each year for a two-year term or until their respective successors are elected or take office. At the time of election, each 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 NESI or another LSC; and (d) reside in the Territory and expect to reside therein throughout at least the first half of the term. The Athlete Representative election shall be conducted at the Board of Directors meeting immediately following the House of Delegates meeting at which Board Members were elected. Prior to the election, the current Athlete Representatives and the Athletes Committee shall be asked to nominate one or more Athlete Members for consideration.
  - .4 COACH REPRESENTATIVES – Two Coach Representatives shall be elected, one each year for a two-year term or until their respective successors are elected. The election of the Coach Representative shall be conducted during NESI's annual coaches meeting following the annual meeting of the House of Delegates, and determined by a majority of the Coach Members in good standing present and voting or, failing that, at a time and place and in a manner designated by the Board of Directors.
- 4.2 ELIGIBILITY – Only Individual Members in good standing shall be eligible to be elected or appointed members of, to be heard at or to vote at the House of Delegates in any capacity. Members of the House of Delegates must maintain their status as Individual Members in good standing throughout their terms of office.
  - 4.3 VOICE AND VOTING RIGHTS OF MEMBERS – The voice and voting rights of members of the House of Delegates and of Individual Members shall be as follows:

- .1 GROUP MEMBER REPRESENTATIVES, BOARD MEMBERS, THE ATHLETE REPRESENTATIVES, THE COACH REPRESENTATIVES AND AT-LARGE HOUSE MEMBERS – Each of the Group Member Representatives, the Board Members, the Athlete Representatives, the Coach Representatives and At-Large House Members shall Have both voice and one vote each in meetings of the House of Delegates.
  - .2 AFFILIATED GROUP MEMBER REPRESENTATIVES – Group Member Representatives of Affiliated Group Members, unless entitled to vote under another provision of these Bylaws, shall have voice but no vote in meetings of the House of Delegates and its committees.
  - .3 INDIVIDUAL MEMBERS – Individual Members who are not members of the House of Delegates may attend open meetings of the House of Delegates and its committees and be heard in the discretion of the presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual Members shall have no vote in meetings of the House of Delegates.
- 4.4 DUTIES AND POWERS – The House of Delegates shall oversee the management of the affairs of NESI and the establishment of policies, procedures and programs. In addition to the duties and powers prescribed in the USS Code or elsewhere in these Bylaws, the House of Delegates shall:
- .1 Elect the officers, and regular and alternate members of the Board of Review and the Committee chairmen and coordinators listed in Section 6.1 in accordance with Sections 6.2 through 6.6;
  - .2 Elect alternates to the USS House of Delegates in accordance with section 502.2 of the USS Code (see also Section 6.7.13.B);
  - .3 Elect the members of the Nominating Committee;
  - .4 Review, modify and adopt the annual budget of NESI recommended by the Board of Directors;
  - .5 Call regular and special meetings of the House of Delegates;
  - .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 NESI;
  - .8 Establish by resolution or the NESI 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 NESI 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 NESI in accordance with Section 11.3; and
- .10 Remove from office any Board Members, members of the Board of Review, or committee chairmen or members or coordinators who have failed to attend to their official duties or member responsibilities or have done so improperly, or who would be subject to penalty by the Board of Review for any of the reasons set forth in Section 10.4.7.C. However, no Board Member, Board of Review member or elected committee chairman or coordinator may be removed except upon not less than thirty (30) days written notice by the Secretary or other officer designated by the House of Delegates specifying the alleged deficiency in the performance of member responsibilities or specific official duties or other reason. All notices and proceedings under this section shall be prepared, served and processed utilizing the procedures for a formal hearing pursuant to Section 10.6.1 to the extent applicable. Should the Board Member, Board of Review member or elected committee chairman or coordinator contest the alleged deficiency or other reason alleged in the notice, the House of Delegates shall hold a hearing at which the defendant shall have the same rights as if the hearing were to be conducted by the Board of Review pursuant to Article 10.
- 4.5 ANNUAL AND REGULAR MEETINGS – The annual meeting of the House of Delegates of NESI shall be held in the month of May. Regular meetings of the House of Delegates shall be held in accordance with a schedule adopted by the House of Delegates or the Board of Directors.
- 4.6 SPECIAL MEETINGS – Special meetings of the House of Delegates may be called by the Board of Directors or the General Chairman. Should the Board of Directors or the General Chairman fail to call the annual or scheduled regular meetings or should a special meeting be appropriate or helpful, a meeting of the House of Delegates may be called by a petition signed by at least twelve (12) members of the House of Delegates or at least five board members.
- 4.7 MEETING LOCATION AND TIME – All meetings of the House of Delegates shall 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.
- 4.8 NOMINATING COMMITTEE –
- .1 MEMBERS OF NOMINATING COMMITTEE; ELECTION – The Nominating Committee shall comprise the Immediate Past General Chairman and not fewer than four (4) 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 Executive Committee members. Section 6.6.3 shall apply to members of the Nominating Committee, but service as the immediate Past General Chairman shall not be counted for that purpose. 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.

- .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 or coordinators specified in Section 6.1 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 same 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 4.15.1 where convenient. See Section 16.1.5 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 7.5 through 7.11 and Section 16.1.5 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.

#### 4.9 MEETINGS OPEN; EXECUTIVE SESSIONS –

- .1 HOUSE OF DELEGATES – House of Delegates meetings shall be open to all members of NESI and USS. Issues pertaining to personnel, disciplinary action, legal, tax or similar affairs of NESI 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

NESI and USS 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.

- 4.10 QUORUM – A quorum of the House of Delegates shall consist of those members present and voting.
- 4.11 VOTING – Except as otherwise provided in these Bylaws or by 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 4.4.10, shall be determined by a two-thirds vote after at least thirty (30) days notice. See also Section 11.3 regarding amendment of these Bylaws.
- 4.12 PROXY VOTE – Voting by proxy in any meeting of the House of Delegates shall not be permitted.
- 4.13 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 4.15.1) 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.
- 4.14 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 8.5, when applicable  
Unfinished (old) business  
Elections  
New business  
Resolutions and orders  
Adjournment

4.15 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 16.1.5 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 5 BOARD OF DIRECTORS**

- 5.1 MEMBERS – The Board of Directors shall consist of the following officers, committee chairmen, coordinators and representatives of NESI, together with those additional members designated in Sections 5.2 and 5.3:
  - .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 Coach Representatives (2)
  - .9 The Athlete Representatives (2)
  - .10 Safety Coordinator
  - .11 Technical Planning Chairman
  - .12 At-Large Board Members (5)
- 5.2 AT-LARGE BOARD MEMBERS – The Board of Directors shall have five (5) At-Large Board Members elected by the Board of Directors. The House of Delegates or the Board of Directors by resolution may reduce the number, but not increase it to more than five (5). Any reduction in the number of At-Large Board Members shall not take effect until the terms of office of the incumbents expire or become vacant.
- 5.3 EX-OFFICIO MEMBERS – The following persons shall be an ex-officio member of the Board of Directors during the time period in which they meet the defined status:
  - .1 The Immediate Past General Chairman of NESI, if an Individual Member in good standing;
  - .2 Members of the USS Board of Directors who are Individual Members in good standing;  
and;
  - .3 USS Committee Chairmen who are Individual Members in good standing.
- 5.4 LIMITATIONS – No more than three (3) members of any Club Member of Affiliated Group Member

shall serve on the Board of Directors at any time. This limitation shall not be applied to Athlete Members. No more than one (1) athlete or one (1) coach from the same Group Member may serve as athlete or coach representative at any one time.

5.5 VOICE AND VOTING RIGHTS OF BOARD MEMBERS – The voice and voting rights of Board Members and Individual Members shall be as follows:

- .1 BOARD MEMBERS – Each Board Member other than the ex-officio members (see Section 5.3) shall have both voice and vote in meetings of the Board of Directors and its committees.
- .2 NON-VOTING BOARD MEMBERS – Unless entitled to vote under another provision of these Bylaws, ex-officio members shall have voice but no vote in meetings of the Board of Directors and its committees.
- .3 INDIVIDUAL MEMBERS – Individual Members who are not Board Members may attend open meetings of the Board of Directors and its committees and be heard in the discretion of the presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual Members shall have no vote in meetings of the Board of Directors or its committees.

5.6 DUTIES AND POWERS – The Board of Directors shall act for NESI and the House of Delegates during the intervals between meetings of the House of Delegates, subject to the exercise by the House of Delegates of its powers of ratification or prospective modification or rescission, except that it shall not remove a Board Member, a Board of Review member or other person elected by the House of Delegates or amend these Bylaws. In addition to the powers and duties prescribed in the USS Code or elsewhere in these Bylaws, the Board of Directors shall have the power and it shall be its duty to:

- .1 Establish and direct policies, procedures and programs for NESI;
- .2 Oversee the conduct by the officers and staff of NESI of the day-to-day management of affairs of NESI;
- .3 Elect At-Large Board Members;
- .4 Elect the Athlete Representatives in accordance with Section 4.1.3;
- .5 Provide advice and consent to appointments proposed by the General Chairman that Require advice and consent under these Bylaws or the NESI Policies and Procedures Manual;
- .6 Cause the preparation and presentation to the House of Delegates of the annual budget of NESI and make a recommendation to the House of Delegates concerning the approval or disapproval thereof;
- .7 Receive presentation of the annual audit report pursuant to Section 8.5 and make a

recommendation to the House of Delegates concerning the approval or disapproval thereof;

- .8 Call regular or special meetings of the Board of Directors or the House of Delegates;
- .9 Admit eligible prospective Group Members and Affiliated Group Members;
- .10 Retain such independent contractors and employ such persons as the Board shall determine are necessary or appropriate to conduct the affairs of NESI;
- .11 Appoint other officers, agents, or committees or coordinators, to hold offices for the terms specified. These appointees shall have the authority and perform the duties as provided in these Bylaws, the NESI 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 provisions of these Bylaws. To the extent not provided elsewhere in these Bylaws, the Board of Directors may delegate to any officer, agent, or committee or coordinator the powers to appoint any such subordinate officers, agents, or committees or coordinators and to prescribe their respective terms office, authorities and duties; and
- .12 Remove from office any officers, At-Large Board Members, committee chairmen, or committee members or coordinators of NESI 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 10.4.7.C. No officer, At-Large Board Member, or 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 10.6.1 to the extent applicable. Should the officer, At-Large Board Member, committee chairman, or 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 10.

## 5.7 EXECUTIVE COMMITTEE –

- .1 **AUTHORITY AND POWER** – The Executive Committee shall have the authority and power to act for the Board of Directors and NESI between meetings of the Board and the House of Delegates.
- .2 **MEMBERS** – The members of the Executive Committee shall be the General Chairman, who shall act as chairman, Administrative Vice-chairman, Senior Vice-chairman, Age Group Vice-chairman, Finance Vice-chairman, Senior Athlete Representative, and Senior Coach Representative. The presiding officer shall appoint an Individual Member to serve as the secretary of the meeting.

- .3 MEETINGS AND NOTICE – Meetings of the Executive Committee shall be held at any time or place within the Territory when called by the General Chairman or any three (3) members of the Committee with a minimum of three (3) days notice required. Pertinent provisions of Section 7.5 through 7.11 and Section 16.1.5 shall apply to the Executive Committee meetings and notices.
- .4 QUORUM – A quorum of the Executive Committee shall consist of four (4) members of the Committee.
- .5 REPORT OF ACTION TO BOARD OF DIRECTORS – At the next regular or special meeting of the Board of Directors the Executive Committee shall make a report of its activities since the last Board of Director's meeting for ratification or prospective modification or recession provided, however, that any action of the Executive Committee upon which a third party may have relied (e.g., by signing, or authorizing the signing of a contract) may not be modified or rescinded by the Board of Directors or the House of Delegates.
- 5.8 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS – Board of Directors and Executive Committee meetings shall be open to all members of NESI and USS. 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 or Executive Committee members, respectively, are entitled to attend. By a majority vote on a motion of a question of privilege the Board of Directors or the Executive Committee 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 of the Executive Committee.
- 5.9 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT – Members of the Board of Directors or the Executive Committee may participate in meetings of the Board of Directors or the Executive Committee 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.
- 5.10 REGULAR MEETINGS – Regular meetings of the Board of Directors shall be held in accordance with a schedule adopted by the Board of Directors.
- 5.11 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.
- 5.12 QUORUM – A quorum of the Board of Directors shall consist of a majority of the members.
- 5.13 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.

- 5.14 PROXY VOTE – Voting by proxy in any meeting of the Board of Directors or the Executive Committee shall not be permitted.
- 5.15 ACTION BY WRITTEN CONSENT - Any action required or permitted to be taken at any meeting of the Board of Directors or the Executive Committee may be taken without a meeting if all the Board Members of Executive Committee members entitled to vote consent to the action in writing and the written consents are filed with the records of the representative meetings. These consents shall be treated for all purposes as votes taken at a meeting.
- 5.16 MAIL VOTE – An 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 an approval or disapproval, and provide a reasonable time (but in no event less than the period specified in Section 5.17) 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.
- 5.17 NOTICES –
- .1 TIME – Not less than ten (10) 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 16.1.5 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.
- 5.18 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  
 Report of Executive Committee  
 Report 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 8.5 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 6 OFFICERS

- 6.1 ELECTED OFFICERS AND COMMITTEE CHAIRMEN – The officers and committee chairmen 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
- 6.2 ELECTIONS – The House of Delegates, at its annual meeting, shall elect the General Chairman, the Administrative Vice-chairman, the Secretary, the Finance Vice-chairman, and the Senior Vice-chairman, in even-numbered years; and the Age Group Vice-chairman, the Treasurer, and the Technical Planning Chairman in odd-numbered years. The House of Delegates shall also elect the Board of Review (see 10.3.3) and the Nominating Committee (see 4.8).
- 6.3 ELIGIBILITY – Only Individual Members in good standing shall be eligible to hold office and must maintain their eligibility throughout their term of office.
- 6.4 DOUBLE VOTE PROHIBITED – An Individual Member entitled to vote in the House of Delegates by virtue of holding a position in NESI may not also vote as a Group Member Representative in the House of Delegates.
- 6.5 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 offices 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.

6.6 TERMS OF OFFICE –

- .1 TERM OF OFFICE – The terms of office of all elected members of the Board of Directors shall be two years.
- .2 COMMENCEMENT OF TERM – Each person elected to a position shall assume office upon election and shall serve until a successor is chosen.
- .3 CONSECUTIVE TERMS LIMITATION – Except for the Secretary, Treasurer, Technical Planning Committee Chairman, 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.

6.7 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 NESI, and the 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 NESI 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 NESI.
- .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 USS as are required by Article 8 of these Bylaws and shall perform the other duties incidental to the office of Secretary. The Secretary, or the staff of NESI's permanent office, shall be custodian of the records, and attest the execution of all duly authorized instruments. The Secretary shall cause to be kept at NESI's permanent office copies of all minutes, official correspondence, meeting and other notices, and any other records of NESI.
- .3 TREASURER: The Treasurer shall be the principal receiving and disbursing officer of NESI. Except as otherwise directed by the Finance Vice-chairman, or the Board of Directors, the Treasurer shall receive all moneys, incomes, fees and other receipts of NESI and pay all bills, salaries, expenses and other disbursements approved by an authorized

officer, committee chairman, coordinator, the Finance Vice-chairman, the Board of Directors or the House of Delegates, or required to be paid pursuant to Section 10.3.12. When authorized by the Board of Directors, income an 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 of 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 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 NESI;
- B. cause the moneys, securities and other financial instruments of NESI to be deposited in the name and to the credit of NESI in such institutions as shall be designated in accordance with Section 6.11 or to be otherwise invested as the Finance Vice-chairman or the Board of Directors may direct;
- C. cause to be appropriately segregated and accounted for any endowment funds, scholarship or awards funds and any similar special purpose funds or accounts;
- D. cause the funds of NESI to be disbursed by checks or drafts, automated debits or wire transfers upon the authorized depositories of NESI, and obtain and preserve proper vouchers for all moneys disbursed;
- E. cause to be kept in the safekeeping of the Treasurer's 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, or the Treasurer shall determine; "The Treasurer's custody of the books and records shall be as a fiduciary for NESI 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 statements to be exhibited to any member of NESI or USS;
- G. cause NESI to be in compliance with the requirements of Section 8.4;
- H. have the power to require from the officers, committee chairmen, coordinators, staff or agents of NESI reports or statements giving such information as the Treasurer may determine to be appropriate or helpful with respect to any and all financial transactions of NESI;

- I. cause the annual audit of accounts of NESI to be performed and cause the preparation and timely filing of all required federal, state and local tax returns, and other financial and tax reports with the applicable government official, and forward a copy of the annual financial statement and audit report and any federal tax return to the Secretary for submission to the Board of Directors and USS national headquarters in accordance with Sections 8.2 and 8.3;
  - J. have the power to appoint one or more assistant treasurers and delegate to them one or more of the Treasury functions, or parts thereof; and
  - K. in general, perform all the other duties incident to the corporate treasury function
- .4 ADMINISTRATIVE VICE-CHAIRMAN: The Administrative Vice-chairman shall conduct meetings in the absence of the General Chairman and, at the request of the General Chairman or in the event of the disability of the General Chairman, shall perform all of the duties of the General Chairman, and when so acting shall have all of the powers of the General Chairman. (See Section 6.9) The Administrative Vice-chairman shall chair, and have general charge of the business, affairs and property of the division that administers NESI business and affairs. The Administrative Vice-chairman shall aid in the development of policy and the coordination of the activities of the officers and committees within the division internally and with other divisions, and committees and coordinators. The Administrative Vice-chairman serves as a liaison to the Athlete Representatives and the Athletes Committee, and shall be responsible to see that the Athlete Representative elections are held in accordance with these Bylaws.
- .5 SENIOR VICE-CHAIRMAN: The Senior Vice-chairman shall chair and have general charge of the affairs and property of the Division that develops and conducts the senior swimming program of NESI.
- .6 AGE GROUP VICE-CHAIRMAN: The Age Group Vice-chairman shall chair and have general charge of the affairs and property of the Division that develops and conducts the age group swimming program of NESI.
- .7 FINANCE VICE-CHAIRMAN: The Finance Vice-chairman is the chief financial officer of NESI. The Finance Vice-chairman shall chair and have general charge of the affairs and property of the division that includes the Treasury function, the development and implementation of an investment program for NESI's working capital, funded reserves and endowment funds and the development and implementation of a marketing and fund-raising plan for NESI. The Finance Vice-chairman shall prepare an annual budget for NESI's operations and present the budget for approval by the Board of Directors and the House of Delegates. In addition, the Finance Vice-chairman shall review the annual audit report and recommend acceptance and appropriate action, if any, with regard thereto by the Board of Directors and the House of Delegates. The Finance Vice-chairman is responsible for the adequacy of NESI's system of internal financial and accounting controls. Together with the Treasurer, the Finance Vice-chairman is ultimately responsible for NESI's compliance with Section 8.4.

- .8 ATHLETE REPRESENTATIVES: The Athlete Representatives shall serve as the liaison between the athletes who are members of NESI and the Board of Directors and House of Delegates. The Senior Athlete Representative shall chair the Athletes' Committee.
- .9 COACH REPRESENTATIVES: The Coach Representatives shall serve as a liaison between the coaches who are members of NESI and the Board of Directors and House of Delegates.
- .10 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 NESI, the continuing review and development of NESI philosophy and for advising other committees and divisions regarding the implementation of that philosophy in the context of NESI's swimming programs.
- .11 AT LARGE BOARD MEMBERS: In addition to their inherent powers and duties as members of the Board of Directors, the At-Large Board Members shall have such powers and duties as may be delegated to them by the NESI Policies and Procedures Manual, the General Chairman, the Board of Directors or the House of Delegates.
- .12 NESI DELEGATES TO THE USS HOUSE OF DELEGATES –
  - A. Officers 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 the USS annual meeting as representatives of NESI and voting delegates to the USS House of Delegates.
  - B. Officer Delegate Alternates – If any of the officer delegates is unable to attend, their elected alternates, if any, shall attend in their places. In the event that there are no elected alternates or the elected alternates are unable to attend, then the General Chairman, with the advice and consent of the Board of Directors, shall appoint alternates who shall attend the USS annual meeting as delegates representing NESI.
  - C. Athlete Representative Alternates – If an athlete delegate is unable to attend, the Athlete Representative next most senior in term of office shall attend. If seniority cannot be established or there remain no additional Athlete Representatives or alternates able to attend, then the General Chairman, with the advice and consent of the Board of Directors, shall designate one or more Athlete Members to attend as a representative of NESI.
  - D. Coach Representative Alternates – If the Senior Coach Representative is unable to attend the USS 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 NESI.

- 6.8 RESIGNATIONS – Any officer may resign by orally advising the General Chairman or by submitting a written resignation to the Board of Directors specifying an effective date of the resignation. In the absence of a specified date, any such resignation shall take effect upon the appointment or election of a successor.
- 6.9 VACANCIES AND INCAPACITIES –
- .1 OFFICE OF GENERAL CHAIRMAN – In the event of a vacancy in the office of General Chairman, or of the General Chairman's temporary or permanent incapacity, the Administrative Vice-chairman shall become the Acting General Chairman until an election can be held at the next meeting of the House of Delegates to fill the remaining term, if any, of the former General Chairman, or until the General Chairman ceases to suffer from any temporary incapacity. While serving as Acting General Chairman, the Administrative Vice-chairman shall vacate the office of Administrative Vice-chairman, except in the case of the General Chairman's temporary incapacity. If the General Chairman is to be absent from the Territory, the General Chairman may, but is not obligated to, designate the Administrative Vice-chairman as Acting General Chairman for the duration of the absence.
  - .2 OFFICES OF ATHLETE OR COACH REPRESENTATIVES – In the event of a vacancy in the office of Athlete Representative or Coach Representative, or of the permanent incapacity of a person holding the office of Athlete Representative or Coach Representative, the General Chairman may appoint, with the advice and consent of the Board of Directors, an Athlete Member or a Coach Member, as the case may be, to serve the remainder of the term of office or until the Board of Directors or the Coaches' Committee, as the case may be, shall elect a successor.
  - .3 OTHER OFFICES – In the event of a vacancy in, or permanent incapacity of the person holding any office other than General Chairman, Athlete Representative, Coach Representative or member of the Board of Review, the General Chairman shall appoint a successor, with the advice and consent of the Board of Directors, to serve until the next regularly scheduled meeting of the House of Delegates. In the event of a temporary incapacity, the General Chairman may designate, with the advice and consent of the Board of Directors, an Individual Member to act for the incapacitated officer for the duration of the incapacity.
  - .4 DETERMINATION OF VACANCY OR INCAPACITY – The determination of when an office becomes vacant or an officer becomes incapacitated shall be within the discretion of the Board of Directors or the House of Delegates with, in the case of an Athlete Representative or a Coach Representative, the advice and consent of the Athletes Committee or the Coaches Committee, respectively. The determination as to when the General Chairman is temporarily incapacitated shall be made, where the circumstances permit, by the General Chairman and otherwise shall be within the discretion of the Board of Directors, subject to any subsequent action by the House of Delegates.
- 6.10 OFFICERS' POWERS GENERALLY –

- .1 AUTHORITY TO EXECUTE CONTRACTS, ETC. – The General Chairman, Administrative Vice-chairman and Finance Vice-chairman each may sign and execute in the name of NESI deeds, mortgages, bonds, contracts, agreements or other instruments duly authorized by the NESI Policies and Procedures Manual, the Board of Directors or the House of Delegates, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors to another officer or agent, expressly requires two or more signatures or is required by law to be otherwise executed. Additional signing authority may be provided by standing resolutions of the Board of Directors or the House of Delegates.
- .2 ADDITIONAL POWERS AND DUTIES – Each officer shall have other powers and perform other duties as may be prescribed in NESI's Policies and Procedures Manual or by the House of Delegates, the Board of Directors, the General Chairman, the respective division Vice-chairman, the delegating officer or these Bylaws. The division Vice-chairman shall have the additional duties and powers set forth in Section 7.1 and 7.5.
- .3 DELEGATION – Officers of NESI may delegate any portion of their powers or duties to another Individual Member or to a committee composed of Individual Members, except that neither the Finance Vice-chairman or the Treasurer may delegate duties to the other without the consent of the Board of Directors. In addition, the authority to sign checks, drafts, orders of withdrawal or wire transfers shall not be delegated other than by the Board of Directors. Except as otherwise provided in these Bylaws and with the consent of the Board of Directors, any officer may delegate any portion of that officer's powers or duties to the paid staff of NESI. A delegation of powers or duties shall not relieve the delegating officer of the ultimate responsibility to see that these duties and obligations are properly executed or fulfilled.
- .4 ASSISTANT AND DEPUTY OFFICERS – The House of Delegates or the Board of Directors may by resolution or NESI's Policies and Procedures Manual may create the office of deputy to one or more of the elected officers. The resolution or the Policies and Procedures Manual shall define the method of election or appointment and define the duties and powers of the respective deputies, which may include the power to act for the officer when the officer is out of the Territory or temporarily incapacitated. The elected officers may appoint one or more assistant officer and define their respective duties.

#### 6.11 DEPOSITORIES AND BANKING AUTHORITY –

- .1 DEPOSITORIES, ETC. – All receipts, income, charges and fees of NESI shall be deposited to its credit in the banks, trust companies, other depositories or custodians, investment companies or investment management companies as the Board of Directors may select, or as may be selected by any officer or officers or agent or agents authorized to do so by the Board of Directors. Endorsements for deposit to the credit of NESI in any of its duly authorized depositories shall be made in the manner determined by the Finance Vice-chairman or the Board of Directors. All funds of NESI not otherwise employed shall be maintained in the banks, trust companies, other depositories or custodians, investment companies or investment management companies designated by the Finance Vice-chairman, the Board of Directors or any officer or officers or agent or agents

authorized to do so by the Board of Directors.

- .2 SIGNATURE AUTHORITY – All checks, drafts or other orders for the payment or transfer of money, and all notes or other evidences of indebtedness issued in the name of NESI shall be signed by the General Chairman, the Treasurer or other officer or officers or agent or agents of NESI, and in the manner, as shall be determined by the Finance Vice-chairman or the Board of Directors.

## ARTICLE 7 DIVISIONS, COMMITTEES AND COORDINATORS

- 7.1 DIVISIONAL ORGANIZATION AND JURISDICTIONS, STANDING COMMITTEES AND COORDINATORS – The divisions of NESI shall each be chaired by a Vice-chairman, the Senior Athlete Representative, or the Senior Coach Representative, whose respective powers, duties, jurisdiction and responsibilities are described in Section 6.7. Under each division Vice-chairman there are officers, committees, coordinators and direct responsibilities as follows:

- .1 ADMINISTRATIVE DIVISION – Administrative Vice-chairman

- Awards Banquet
- Bylaws/Legislation/Rules
- Calendar
- Club Development
- Computer
- Elections
- Equipment
- Insurance
- Legal (General Counsel, if applicable)
- Membership/Registration
- Officials
- Personnel
- Public Relations
- Publications/Newsletter
- Policies and Procedures Manual
- Records/Top 16 Tabulation
- Swimguide/Parents Manual
- Secretary
- Special Events

- .2 AGE GROUP DIVISION – Age Group Vice-chairman

- Awards
- Adaptive Swimming
- Age Group Swimming
- Camps/Clinics



Program Development  
Time Standards  
Zone Team

.3 SENIOR – Senior Vice-chairman

Awards  
Camps/Clinics  
Open Water  
OVCs  
Safety  
Senior Swimming  
Time Standards

.4 FINANCE DIVISION – Finance Vice-chairman

Audit  
Budget  
Finance  
Marketing/Sponsorship  
Swim-a-thon  
Tax  
Treasurer

.5 ATHLETES DIVISION – Senior Athlete Representative

Athlete Representatives  
Athletes Committee

.6 COACHES DIVISION – Senior Coach Representative

Coach Representative  
Coaches Committee

.7 TECHNICAL PLANNING DIVISION

Technical Planning  
Meet Management  
Meet Sanctions  
Meet Sponsorship

7.2 NON-OFFICER CHAIRMEN AND THEIR COMMITTEES; COORDINATORS

.1 ELECTED, EX-OFFICIO AND APPOINTED NON-OFFICER CHAIRMEN AND COORDINATORS –

A. Ex-officio Chairman – Pursuant to Section 7.3, certain other committee chairmen

are designated ex-officio by virtue of an office currently held

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

7.3 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-chair 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 five 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 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.
- .4 OFFICIALS COMMITTEE – The members of the Officials Committee shall be the Officials Chairman, who shall serve as chairman, and at least two other members each of whom shall be a certified official of NESI.
- .5 TECHNICAL PLANNING COMMITTEE – The members of the Technical Planning Committee shall be the Technical Planning Committee Chairman, who shall serve as chairman, an Athlete Member and at least six (6) additional members of whom at least fifty percent (50%) shall be Coach Members. The Athlete Member and the additional members shall be appointed by the General Chairman with the advice and consent of the Board of Directors.
- .6 FINANCE COMMITTEE/BUDGET COMMITTEE – The members of the Finance Committee/Budget Committee shall be the Finance Vice-chairman, who shall serve as Chairman, the General Chairman, the Administrative Vice-chairman and the Treasurer.
- .7 PERSONNEL COMMITTEE – The members of the Personnel Committee shall be the

General Chairman, who shall serve as chairman, the Administrative Vice-chairman and the Finance Vice-chairman.

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

#### 7.4 DUTIES AND POWERS OF STANDING COMMITTEES, NON-OFFICER CHAIRMAN AND COORDINATORS –

- .1 AUDIT COMMITTEE – The Audit Committee is authorized to, and it shall be its duty to, conduct the annual audit of the books of NESI pursuant to Section 8.5 and present the results thereof to the Board of Directors and the House of Delegates.
- .2 MEMBERSHIP COORDINATOR – The Membership Coordinator is authorized and obligated to conduct the registration of Group and Individual Members and supervise the transmission of registration information to USS and assist in the preparation of the report required by Section 8.6, together with such additional reports as may be requested by USS, the Board of Directors, the Administrative Vice-chairman or the Finance Vice-chairman. The Membership Coordinator shall be responsible for the registration of Group and Individual Members and shall make the reports required by Section 8.6, together with such additional reports as may be required by USS, the Board of Directors or the Administrative Vice-chairman.
- .3 OFFICIALS COMMITTEE – The Officials Committee is authorized and obligated to recruit, train, test, certify, evaluate, retest, recertify and supervise officials for NESI 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. The Officials Chairman shall chair the Officials Committee which is responsible for recruiting, training, certifying and supervising officials for NESI. The Officials Chairman shall be a referee certified by NESI and each member of the Officials Committee shall be a certified official of NESI.
- .4 SAFETY COORDINATOR – The Safety Coordinator shall be responsible for coordinating safety enhancement and training opportunities as needed and for the dissemination of USS safety education information to all Group Members, athletes, coaches and officials of NESI. The Safety Coordinator shall develop safety education programs and policy for NESI and make recommendations regarding those programs and policies and their implementation to the Senior Vice-chairman, Administrative Vice-chairman 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 8.7.
- .5 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, NESI, USS and the sport of swimming.

- .6 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, NESI and the sport of swimming.
  - .7 TECHNICAL PLANNING COMMITTEE – The Technical Planning Committee shall be responsible for long-range planning for the swimming programs conducted by NESI and for advice regarding the technical aspects of those programs and of the sport of swimming generally.
  - .8 FINANCE COMMITTEE/BUDGET COMMITTEE – The Finance Committee/Budget Committee is authorized and obligated to develop, establish where so authorized or recommend to the Board of Directors and supervise the execution of policy regarding the investment of NESI working capital, funded reserves and endowment funds, within the guidelines, if any, established by the Board of Directors or the House of Delegates. The Finance Committee shall also regularly review NESI equipment needs (both operational and office) and the various methods available to finance the acquisition of any needed equipment, make a determination of the best financing method for NESI and make recommendations to the Budget Committee and the Board of Directors.
  - .9 PERSONNEL COMMITTEE – The Personnel Committee is authorized to, and it shall be its duty to, negotiate and set wages, compensation and other terms of employment of the Corporation's staff (whether employees or independent contractors) within budgetary guidelines and policies established by the Corporation.
- 7.5 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 them fully informed;

- .5 Keep the General Chairman, the respective division vice-chairman or committee chairman and the staff of NESI's office 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 NESI's office;
  - .7 Refer to the Board of Directors any recommendations for action which would establish or change policies or programs for NESI, except as otherwise provided in these Bylaws or by the Board of Directors; and
  - .8 Perform the other specific duties listed in NESI's Policies and Procedures Manual or as may be delegated by the General Chairman, the respective division vice-chairman or committee chairman, the Board of Directors or the House of Delegates.
- 7.6 DUTIES AND POWERS OF COMMITTEES AND COORDINATORS GENERALLY – Except as otherwise provided in these Bylaws, the duties and powers of the standing committees and coordinators shall be prescribed by NESI's Policies and Procedures Manual, the House of Delegates, the Board of Directors, the General Chairman or the respective division vice-chairman. Except as otherwise provided in the Bylaws, the duties and powers of any other committees and subcommittees shall be prescribed by NESI's Policies and Procedures Manual, the House of Delegates, the Board of Directors or the officer, coordinator or chairman pursuant to whose powers such committee or subcommittee was created.
- 7.7 REGULAR AND SPECIAL MEETINGS – Regular and special meetings of divisions, committees or subcommittees of NESI shall be held as determined by the respective Vice-chairmen or committee or subcommittee chairman. In addition, meetings may be called where applicable by the division vice-chairman, or committee chairman or coordinator pursuant to whose authority a committee or subcommittee was established.
- 7.8 MEETINGS OPEN; EXECUTIVE (CLOSED) SESSIONS – Meetings of divisions, committees and subcommittees other than the Personnel Committee shall be open to all members of NESI and USS. Matters relating to personnel, disciplinary action, legal, taxation and similar affairs shall be deliberated and decided in a closed executive session which only the respective members are entitled to attend. By a majority vote on a motion of a question of privilege a division, committee or sub-committee may decide to go into executive session on any matter deserving of confidential treatment or of personal concern to any member of the division, committee or sub-committee.
- 7.9 VOICE AND VOTING RIGHTS OF DIVISION, COMMITTEE AND SUB-COMMITTEE MEMBERS – The voice and voting rights of Board Members and Individual Members shall be as follows:
- .1 MEMBERS – Each division, committee and sub-committee member shall have both voice and vote in the respective meetings.
  - .2 NON-VOTING COMMITTEE OR SUB-COMMITTEE MEMBERS – Unless entitled to vote under another provision of these Bylaws, the General Chairman shall have voice but no

vote in meetings of divisions, committees and sub-committees.

- .3 INDIVIDUAL MEMBERS – Individual Members who are not members of the division, committee or sub-committee may attend open meetings of the division, committee or sub-committee and be heard in the discretion of the presiding officer. Unless entitled to vote under another provision of these Bylaws, Individual Members shall have no vote in those meetings.
- 7.10 ACTION BY WRITTEN CONSENT – Any action required or permitted to be taken at any meeting of a division, committee or sub-committee may be taken without a meeting if all the division, committee or sub-committee members entitled to vote consent to the action in writing and the written consents are filed with the records of the meetings. These consents shall be treated for all purposes as a vote taken at a meeting.
- 7.11 PARTICIPATION THROUGH COMMUNICATIONS EQUIPMENT – Members of any division, committee or sub-committee may participate in a meeting of the division, committee or sub-committee 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 a person at a meeting.
- 7.12 QUORUM – Except as otherwise provided in these Bylaws or in the resolution or other action establishing a committee or sub-committee, a quorum of any committee or sub-committee shall consist of those members present of the committee or sub-committee.
- 7.13 VOTING – Except as otherwise provided in these Bylaws or the Parliamentary Authority, all motions, orders and other propositions coming before a division, committee or sub-committee shall be determined by a majority vote.
- 7.14 PROXY VOTE – Voting by proxy is any meeting of a division, committee or sub-committee of NESI shall not be permitted.
- 7.15 NOTICES –
  - .1 TIME – Except as otherwise provided in these Bylaws or the resolution or other action establishing a committee or sub-committee, not less than forty-eight (48) hours notice in the case of notice given by telephone, and six (6) days notice in all other cases, shall be given for any meeting of a division, committee or sub-committee of NESI. Separate notices need not be given for regular meetings that are scheduled well in advance. (See Section 16.1.5 for the various forms of notice.)
  - .2 INFORMATION – The notice of a meeting shall contain the time, date and site.
- 7.16 ORDER OF BUSINESS – At all meetings conducted under the authority of this Article, 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 coordinators, committees and subcommittees  
Unfinished (old) business  
New business  
Resolution and orders  
Adjournment

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

## **ARTICLE 8 ANNUAL AUDIT, REPORTS AND REMITTANCES**

- 8.1 MINUTES – The Secretary shall, within thirty (30) days after each meeting of the Board of Directors and the House of Delegates, transmit a copy of the minutes of the meeting to the respective members and to USS national headquarters.
- 8.2 FINANCIAL AND FEDERAL TAX REPORTS – The Secretary shall forward to USS national

headquarters a copy of the annual closing Balance Sheet and Statement of Income and Expense for the preceding fiscal year following completion of the audit of the accounts and internal financial controls and procedures of NESI and the report thereon prepared in accordance with Section 8.5, within fifteen (15) days of receipt of the audit report and shall advise USS national headquarters within thirty (30) days following acceptance by the House of Delegates. Copies of any corresponding federal income tax return required to be filed by NESI under the IRS Code shall be included with the annual audit report sent to USS national headquarters.

- 8.3 STATE AND LOCAL REPORTS AND FILINGS – The Secretary shall cause to be made all reports and non-tax filings and shall requisition from the Treasurer checks with which to pay any applicable fees required by its state of incorporation and by any other state of municipality in which it operates.
- 8.4 PUBLIC AVAILABILITY OF CERTAIN INFORMATION – NESI shall cause to be made available at a reasonable location and time determined by NESI to anyone requesting to see a copy of NESI's federal income tax and information returns for each of the last three years, and a copy of the materials submitted by USS to include NESI in USS's group exemption ruling as required pursuant to IRS Code section 6104 and any similar requirements of applicable state or local laws.
- 8.5 ANNUAL AUDIT – An annual audit of the accounts, books and records of NESI shall be completed no later than the end of the third month following the end of its fiscal year. The audit, or review, shall be conducted by the Audit Committee. The audit shall cover any federal, state or local income tax return that NESI is required to file under the IRS Code or applicable provisions of state or local law, rules or regulations, the balance sheet, the statement of income and expenses, check register and bank statements and other records as is deemed appropriate. If the audit, or review, is conducted by the Audit Committee or the Finance Committee, the committee shall issue a report signed by all of its members and stating that the financial records and reports of NESI have been reviewed and fairly present the financial condition of NESI as of the date of the balance sheet and for the fiscal period of the statement of income and expenses and the report is true and correct to the best of the Committee's knowledge, information and belief. If the audit, or review, is conducted by an independent auditor, the report shall be in accord with generally accepted auditing practices applicable to the audit or review, as the case may be.
- 8.6 MEMBERSHIP AND REGISTRATION REPORTS – The Membership Coordinator shall forward in a timely manner all required reports to the Executive Director of USS. This report shall be accompanied by a remittance of the appropriate membership and registration fees due to USS. The Membership Coordinator shall make periodic summary reports to the Administrative Vice-chairman, the Board of Directors and the House of Delegates.
- 8.7 SAFETY REPORTS –
- .1 INCIDENT/OCCURRENCE REPORTS – An occurrence report providing all of the information requested by applicable USS form should be completed at the time of the occurrence by the meet director, officer, coach or club officer with copies to USS national headquarters, the Safety Coordinator and the Administrative Vice-chairman and the NESI office.



- .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 NESI and USS, 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 NESI and its members to reduce the likelihood of a re-occurrence and the status of that recommendation.
- B. BOARD OF DIRECTORS REPORTS – The regular report to the Board of Directors may be a summary addressing primarily any recommendation for action by NESI and its members.
- .3 SAFETY EDUCATION – The Safety Coordinator shall be responsible for disseminating safety information flowing from USS Headquarters and, exploring safety education opportunities and developing a safety education program tailored to NESI and its members and Territory.
- 8.8 MAILING ADDRESS – NESI shall notify in writing USS national headquarters of any change in its regular mailing address within 14 days of the change.
- 8.9 REPORTS GENERALLY – NESI shall make all reports and remittances to USS as specified in the USS Code or by the National Board of Directors of National House of Delegates, in such a manner and on such written forms as may be requested by USS national headquarters. The General Chairman, the Membership 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 9 MEMBERS' BILL OF RIGHTS**

- 9.1 INDIVIDUAL MEMBERS' BILL OF RIGHTS – NESI, in furtherance of Article 301 of the USS Code, shall respect and protect the right of every Individual Member who is eligible under NESI, USS 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 NESI, USS 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, hearing and determination may take place after the competition is concluded.

- 9.2 CLUB MEMBERS' BILL OF RIGHTS – NESI shall respect and protect the right of every Club Member which is eligible under NESI, USS 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 NESI, USS 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.

## **ARTICLE 10 BOARD OF REVIEW, HEARINGS AND RIGHT OF APPEAL**

- 10.1 INTRODUCTION – USS 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 USS 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 Article 9, and the USS 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, NESI 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 USS Code of Ethics or otherwise violate the policies, procedures, rules and regulations adopted by USS or NESI, or conduct that may bring USS, NESI 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 NESI 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.
- 10.2 DEFINITIONS FOR ARTICLE 610 – When used in this Article 10, 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 10.6.1.C and served in the manner prescribed in Section 10.10.
  - .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 10.10. The Notice sets the hearing date and procedures and establishes the schedule to be followed leading to the hearing, among other things. See Section 10.2.3.

- .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 10.3.12.B.
- .5 "Protest" shall mean a written complaint filed in accordance with Section 10.6.1 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 NESI or a constituent element, officer or agent of NESI. The Protest may relate to an applicant's having been denied membership in NESI or a member's alleged infraction against its responsibilities under Section 2.2 or about a decision or action by someone acting under the authority of NESI or USS 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 10.6.1.D and served in the manner prescribed in Section 10.10.
- .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.
- .9 "Vice-chairman" when used by itself shall mean the Vice-chairman of the Board of Review.

### 10.3 BOARD OF REVIEW ORGANIZATION –

- .1 ESTABLISHMENT – The Board of Review of NESI shall be independent and impartial.
- .2 MEMBERS – The Board of Review shall have at least five (5) regular members and at least 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 upon election and shall serve until a successor is chosen.
  - C. Eligibility – Each regular and alternate member of the Board of Review shall be an

Individual Member of NESI and USS. In no case shall elected 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 7 that are specified in Section 7.20 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 10.5.1.C governs the quorum for hearings and rehearings 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 INCAPACITY'S 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 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 rehearings other than delay for the benefit

of the new Presiding Officer. The Chairman or the new Presiding Officer may make such 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 rehearsing 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 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 10 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 10.6.4) 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 USS General Counsel, any member of the USS Counselors Committee, the Chairmen of the USS Legislation, Rules or Officials Committees or of the Bylaws Subcommittee or an attorney (who need not be a member of NESI, USS or the Board of Review) or the Chairman regarding any issue 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 NESI, USS 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.
- C. 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 USS 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 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 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 that 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 10.5.2.
  - 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 10.3.10.

#### 10.4 GENERAL JURISDICTION –

- .1 ADMINISTRATIVE POWERS – The Board of Review shall have the powers and 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 10.3.4,
  - 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 NESI, its status or conduct as a Local Swimming Committee or the administration of the sport of swimming in the Territory which involves:
- A. NESI and (1) a member or members of NESI 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 NESI, or
  - D. With respect to conduct or events occurring outside the Territory, (1) NESI and a member or members of NESI or (2) only a member or members of NESI.

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

- ..4 EXERCISE OF POWERS AND DECISIONS – Except for authority and power granted to the Chairman or the Presiding Officer, the exercise of the authority and powers of the Board of Review and the decision 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 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 10.10), or in the case of subject matter that relates to a conviction, or actions which could be the basis of a conviction, for a crime (including felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, violation of a law specifically designed to protect minors or similar offenses, more than five



(5) years prior to that date. A determination not to exercise its jurisdiction as a result of the untimeliness of a Protest may be the subject of a request for rehearing and, thereafter, appeal to the National Board of Review pursuant to Section 10.9.

- .6 FILING FEES – The Board of Directors or the House of Delegates may impose a schedule of generally applicable fees to be collected at the time a Protest, Request for a Rehearing or Request for Formal Hearing following an Emergency Hearing is filed with the Board of 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 NESI 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 NESI;
    - (7) interpret any provision of the FINA rules and regulations to the extent not pre-preempted by FINA, the USS Code (except for Part One), the USS Code of Ethics, these Bylaws, other policies, rules, regulations and procedures of USS or NESI, 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 NESI and USS;
    - (9) deny, grant, suspend or restore membership in NESI and USS for a definite or indefinite period of time, with or without terms of probation, or expel any Group Member or Individual Member of NESI and USS, 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 USS, NESI, its Group Members or other LSCs 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 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 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 NESI or of a Group Member (13) who has violated any of the regulations, rules, policies or procedures of NESI, USS or FINA, including any of the responsibilities of membership set forth in Section 2.2, (14) who aids, abets, instigates or encourages another to violate any of such regulations, rules or policies, (15) who is responsible for any such violation by another under Section 2.2.2, (16) 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 (17) who has acted in a manner which has brought, or may bring, into disrepute NESI, USS 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.

## 10.5 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 and the full regular membership 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 10.3.6 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.
- 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.

### .2 REHEARINGS –

- 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 five (5) members may be reheard by the full Board of Review. Members of the initial hearing panel may be members of the full Board of Review on rehearing.

- 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 five (5) members and the decision was not unanimous and at the discretion of the Chairman in all other instances.
- C. Time within which a Rehearing may be Requested – The 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.
- D. Failure to Request a Rehearing – A person may not appeal pursuant to Section 10.9 a decision of a panel of less than five (5) members without first making a timely request for a rehearing.
- E. Decision of Chairman on Request; Notice of Rehearing –
  - (1) Discretionary Rehearings – With respect to requests for a rehearing that are discretionary, the Chairman, in the same manner in which decisions are rendered, shall either grant or deny the request within ten (10) Business Days of the receipt of the request.
  - (2) Non-Discretionary Rehearings – With respect to requests for a rehearing that are not discretionary, within ten (10) Business Days of the receipt of the request, the Chairman shall schedule a rehearing.
  - (3) Rehearing Notice; Affect of Inaction – In either case, the Chairman shall notify all parties to the initial hearing of the rehearing, its time and date and the method by which the rehearing will be conducted. If the Chairman does not take action within ten (10) Business Days, the decision of the panel shall be considered final and any of the parties may appeal the decision in accordance with Section 10.9.
- F. Fresh Start Hearing or On the Record Rehearing – The rehearing panel at the discretion of the Chairman or the Presiding Officer may conduct an entirely new hearing or may make its decision based on the record created by the initial panel supplemented by whatever written memoranda or oral argument may be requested by the Chairman or the Presiding Officer. The record shall include the Protest, the Notice of Charges, the Answer, the 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 extent applicable, the procedures for a formal hearing shall apply to a rehearing. See Sections 10.5.1 and 10.6.1E.

- .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 NESI and USS.
  - .4 EXTENSIONS OF TIME – The general rule regarding extensions of time within which any act is required to be taken pursuant to this Article 10 appears in Section 10.3.11.
  - .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.
- 10.6 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, in action 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 10.2.5. The Protest shall be accompanied by any filing fee due under Section 10.4.6 or by any 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 10.2.3. The Notice shall be sent to each Respondent's last known address (determined in accordance with the provisions of Section 10.10) by certified or express mail, return receipt requested, by Federal Express, signature required, or by the personal service. If the Respondent is NESI 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 Secretary of NESI'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 10.3.12A) 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 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 10.10.; and
  - (6) a statement of the right of the 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 10.2.1. The Answer shall be delivered in accordance with Section 10.10.2.
- 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 10.2.7. The Rebuttal shall be delivered in accordance with Section 10.10..
- E. Conduct of Hearing –

- (1) Generally – Hearings shall be conducted in an orderly fashion, but without regard for the formalities of traditional courtroom 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 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 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 10.5.1F. 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 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 Protester, each Respondent, their respective counsel, and any other party to the proceeding, the General Chairman and the Secretary of NESI, the Chairman of the National Board of Review and the General Counsel of USS in accordance with Section 10.10.2.

## .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 related 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 10.2.3 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 resolutions 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 10.6.1E 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 NESI, the Chairman of the National Board of Review and the General Counsel of USS in accordance with Section 10.10.2.

E. Right to a Subsequent Formal Hearing – If either the Protester 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 10.6.1, as though the emergency hearing had 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 10.9.

.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 10.9, 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 10 appears in Section 10.3.11. Nevertheless, the time within which the Notice required by Section 10.2.3 must be transmitted may not be extended without the consent of the Protester of the USS General Counsel.

10.7 FINALITY OF BOARD OF REVIEW DECISIONS – Except as otherwise provided in this Article 10 with regard to rehearing, 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.

- 10.8 FULL FAITH AND CREDIT TO BOARD OF REVIEW DECISIONS – Final decisions of the Board of Review of another Local Swimming Committee or the National Board of Review shall, where relevant and necessary, be recognized and fully enforced by NESI. Those final decisions may not be attacked or reopened in any proceeding before the NESI Board of Review other than one seeking enforcement of that decision.
- 10.9 APPEAL FROM BOARD OF REVIEW DECISIONS – Except to the extent that any appeal is precluded by Sections 10.5.2D or 10.6.2E, any person, including the Protester and the Respondent, have 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 USS Executive Director and accompanied by the appellate filing fee established by USS. 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.
- 10.10 NOTICE TO HEARING PARTICIPANTS, TRANSMISSION OF DOCUMENTS AND DETERMINATIONS OF TIMELINESS –
- .1 NOTICE TO HEARING PARTICIPANTS WHO ARE MEMBERS OF NESI –
- A. NESI Members Generally – In each case, where notices or other hearing-related documents are to be delivered to a member of NESI, it shall be sufficient to deliver the notice or other document to the member's last known address in accordance with Section 16.1.5.
- B. Minors – In the case of notices directed to NESI 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 10.2.3 and 10.6.2B), all documents transmitted pursuant to this Article 10 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 10.10. 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 confirmed orally or by other methods of transmission permitted by this paragraph.
- .3 DETERMINATIONS OF TIMELINESS – The rules provided in Section 16.1.5 shall apply in

the determination of the timeliness of any notice or other action under this Article 10.

## **ARTICLE 11 ORGANIZATION, AMENDMENT OF BYLAWS AND DISSOLUTION**

- 11.1 **NON-PROFIT AND CHARITABLE PURPOSES** – As stated in Section 1.2, NESI 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, NESI 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 NESI 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.
- 11.2 **DEDICATION OF ASSETS, ETC.** – The revenues, properties and assets of NESI are irrevocably dedicated to the purposes set forth in Sections 1.2 and 11.1 of these Bylaws. No part of the net earnings, properties or assets of NESI shall inure to the benefit of any private person of any member, officer or director of NESI.
- 11.3 **AMENDMENTS** – Any provision of these Bylaws not mandated by USS may be amended at any meeting of the House of Delegates by a two-thirds vote of the members present and voting. Amendments so approved shall not take effect until reviewed and approved by the USS Legislation Sub-committee. These Bylaws shall be deemed amended ninety (90) days after the conclusion of any annual meeting of USS at which the corresponding provisions of Part Six of the USS Code of Rules and Regulations are amended (or such later effective date established in the amending USS legislation) to the extent that such amendment affects a provision required to be included herein or is itself required to be included herein, unless NESI shall have requested permission of the USS Legislation Sub-committee not to have such amendment take effect with respect to these Bylaws.
- 11.4 **DISSOLUTION** – NESI 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 NESI shall not inure to the benefit of any private individual, unincorporated organization or corporation, including any member, officer or director of NESI, but shall be distributed to United States 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 NESI 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 12 INDEMNIFICATION**

- 12.1 INDEMNITY – NESI 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 NESI, 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 NESI specified in Section 12.3 and was acting or failing to act in one or more of these 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. NESI may, to the full extent permitted by law, purchase and maintain insurance on behalf of any Indemnified Person against any liability that could be asserted against the Indemnified Person.
- 12.2 EXCLUSION – The indemnification provided by this Article 12, shall not apply to any Indemnified Party whose otherwise indemnified conduct is finally determined to have been in bad faith, self-dealing, gross negligence, wanton and willful disregard of applicable laws, rules and regulations, of the USS Code, of the USS Code of Ethics or these Bylaws or who is convicted of a crime (including felony, misdemeanor and lesser crimes) involving sexual misconduct, child abuse, violation of a law specifically designed to protect minors or similar offenses, or who is found by the Board of Review or the National Board of Review to have committed actions which would be the basis for conviction and, in each case, the otherwise indemnifiable conduct (or failure to act) was, or was directly related to, the predicate acts of the conviction or finding.
- 12.3 INDEMNIFIED PERSONS – As used in this Article 12, “Indemnified Person” shall mean any person who is or was a Board Member, Board of Review Chairman, Vice-chairman, Presiding Officer or member, Group Member Representative, officer, official, coach, committee chairman or member, coordinator, volunteer, employee or agent of NESI, or is or was serving at the direct request of NESI as a director, officer, Group Member Representative, meet director, official, coach, committee chairman or member, coordinator, volunteer, employee or agent of another person or entity involved with the sport of swimming.
- 12.4 EXTENT OF INDEMNITY – To the full extent permitted by law, the indemnification provided in this Article shall include expenses (including attorneys’ fees, disbursements and expenses), judgments, fines, penalties and amounts paid in settlement, and, except as limited by applicable laws, these expenses shall be paid by NESI in advance of the final disposition of such action, suit or proceeding. If doubt exists as to the applicability of an exclusion to NESI’s obligation to indemnify, NESI may require an undertaking from the Indemnified Person obliging him to repay such sums if it is subsequently determined that an exclusion is applicable. In the case of any person engaged in the sport of swimming for compensation or other gain, if NESI determines that there is reasonable doubt as to such person’s ability to make any repayment, NESI shall not be obligated to make any payments in advance of the final determination. This indemnification shall not be deemed to limit the right of NESI to indemnify any other person for any such expenses to the full extent permitted by law, not shall it be deemed exclusive or any other rights to which any Indemnified Person may be entitled under any agreement, vote of members or disinterested directors or otherwise, both as to action in an official capacity and as to action in another capacity while holding such office.
- 12.5 SUCCESSORS, ETC. – The indemnification provided by this Article shall continue as to an

Indemnified Person who has died or been determined to be legally incompetent and shall apply for the benefit of the successors, guardians, conservators, heirs, executors, administrators and trustees of the Indemnified Person.

### **ARTICLE 13 PARLIAMENTARY AUTHORITY**

- 13.1 ROBERT'S RULES - The rules in the then current edition of Robert's Rules of Order Newly Revised shall govern NESI 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 NESI, the House of Delegates, the Board of Directors or its divisions, committees, etc., may adopt or as set forth in the next paragraph.
- 13.2 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.
- 13.3 SPECIAL RULES OF ORDER – [This Section reserved for future use.]

### **ARTICLE 14 PERMANENT OFFICE AND STAFF**

- 14.1 OFFICE – NESI shall maintain an office in the Territory for the storage and maintenance of the books and records and equipment of NESI and for other purposes as may be determined by the House of Delegates or the Board of Directors in accordance with these Bylaws.
- 14.2 STAFF – NESI shall retain paid staff at the NESI 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 NESI's Policies and Procedures Manual or by resolution of the Board of Directors.
- 14.3 APPROPRIATIONS – The Budget Committee shall include in its proposed budget a line item for the costs of NESI's 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.

## **ARTICLE 15 MISCELLANEOUS**

- 15.1 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 Massachusetts become, illegal, invalid or unenforceable, the remainder of these Bylaws shall continue in full force and effect.
- 15.2 FISCAL YEAR – The fiscal year of NESI shall be from September 1 of each year to August 31 of the succeeding year.
- 15.3 TAX STATUS; INTERPRETATION OF BYLAWS – It is intended that NESI 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 NESI shall have that or similar status under the applicable state and local laws as will exempt it from taxation to the minimum extent possible to the extent not contrary to applicable federal requirements. These Bylaws shall be interpreted accordingly.

## **ARTICLE 16 DEFINITIONS, CONVENTIONS AND RULES OF INTERPRETATION**

- 16.1 CONVENTIONS AND RULES OF INTERPRETATION
- .1 TERMS GENERALLY – Whenever the context may require, any pronoun of 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 NESI positions and not to USS of another organizations.
- .3 PRINCIPLE RULE OF INTERPRETATION – The principle substantive rule of interpretation applicable to these Bylaws is set forth in Section 15.3.
- .4 RULE OF INTERPRETATION APPLICABLE TO ARTICLE 10 – Article 10 shall be interpreted generously in order to achieve the intent expressed in Section 10.1.
- .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 NESI 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 of 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 with a person other than the intended recipient shall not be given notice 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 NESI shall be the address given in the latest application for registration or membership in NESI and USS filed with the Membership 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 NESI 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 by 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.
- 16.2 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 10 are set forth in Section 10.2. For an additional definition applicable solely to Article 12, see Section 12.3:
- .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 NESI or the sport of swimming and who is in good standing as an Individual Member of NESI and USS. (See Section 2.1.2.A.)

- .2 "Affiliated Group Member" shall mean any organization which supports the sport of swimming and the objectives and programs of NESI and USS, but which does not have Athlete Members and Coach Members, which is in good standing as a Group Member of NESI and USS, and which is neither a Club Member of NESI. (See Section 2.1.1.B.)
- .3 "Affiliated Group Member Representative" shall mean the individual appointed to represent an Affiliated Group Member in the House of Delegates. (See Section 4.1.1.)
- .4 "Article" shall mean the principal subdivisions of these Bylaws.
- .5 "Articles of Incorporation" shall mean the document filed with (insert the title of the office and the state in which the document was filed; usually the Secretary of State) pursuant to which NESI was formed.
- .6 "At-Large Board Member" shall mean those Board Members designated as such. (See Section 5.2)
- .7 "At-Large House Member" shall mean the Individual Members appointed by the General Chairman to be members of the House of Delegates. (See Section 4.1.2.)
- .8 "Athlete Member" shall mean any individual who competes or has competed during any part of the three (3) immediately preceding years in the sport of swimming and is in good standing as an Individual Member of NESI and USS (See Section 2.1.2.A.)
- .9 "Athlete Representative" shall mean the Athlete Member elected to represent athletes in the House of Delegates and on the Board of Directors pursuant to Section 4.1.3.
- .10 "Board Member" shall mean a member of the Board of Directors, including the At-Large Board Members. Where the contexts requires, the term does not include the Athlete Representatives or the Coach Representatives.
- .11 "Board of Directors" shall mean the Board of Directors of NESI.
- .12 "Board of Review" shall mean the investigative and judicial body of NESI established pursuant to Section 10.3.
- .13 "Business Day" shall mean a calendar day which is not a Saturday, a Sunday or a legal federal or state holiday anywhere within the Territory.
- .14 "Bylaws" shall mean these bylaws as adopted by, and in effect for, NESI.
- .15 "Club" shall mean an organization that has athletes and coaches engaged in the sport of swimming.
- .16 "Club Member" shall mean any club or other organization which is in good standing as a Group Member of NESI and USS and has athletes and coaches and participates in the sport of swimming. All athletes and coaches of the club or organization must be Individual



Members in good standing with NESI and USS. (See Section 2.1.1.A.)

- .17 "Club Member Representative" shall mean the individual appointed to represent a Club Member in the House of Delegates pursuant to Section 4.1.1.
- .18 "Club Safety Coordinator" shall mean the Active Individual Member designated by each Club Member to serve as its liaison with NESI and USS concerning safety matters. (See Section 2.2.3.)
- .19 "Coach Member" shall mean any individual, whether or not affiliated with a Group Member, who has satisfactorily completed all safety and other training required by NESI and/or USS and who is in good standing as a member of NESI and USS. (See Section 4.1.4.)
- .20 "Coach Representative" shall mean the Coach Member elected to represent the coaches in the House of Delegates and the Board of Directors. (See Section 4.1.4.)
- .21 "Executive Committee" shall mean the committee of the Board of Directors which may act for the Board of Directors between meetings. (See Section 5.7.)
- .22 "FINA" shall mean the Federal Internationale de Natation Amateur, the international governing body for the sport of swimming.
- .23 "Group Members" shall mean Club Members, and Affiliated Group Members.
- .24 "Group Member Representative" shall mean the individual appointed to represent a Group Member in the House of Delegates. (See Section 4.1.1.)
- .25 "House of Delegates" shall mean the House of Delegates of NESI as established by Article 4 of these Bylaws.
- .26 "Immediate Past General Chairman" shall mean the individual who is the immediate past General Chairman of NESI except when that person became immediate past General Chairman by virtue of the House of Delegates taking action pursuant to Section 4.1.10, the Board of Directors taking action pursuant to 5.6.12 or the House of Delegates failing to reelect that person to another term sought by that person. The Immediate Past General Chairman shall serve for the duration of the successor General Chairman's term. If the office of Immediate Past General Chairman becomes vacant for any reason, including the exception set forth in the initial sentence of this definition, it shall not be filled by appointment or election, but shall remain vacant until another individual becomes Immediate Past General Chairman.
- .27 "Individual Members" shall mean Athlete Members, Coach Members, and Active Individual Members and Life Members.
- .28 "IRS CODE" shall mean the United States Internal Revenue Code of 1986, as amended from time to time, or the corresponding provision of any future United States internal revenue law and shall, when appropriate, also include a reference to the Treasury

Regulations issued thereunder.

- .29 "Life Member" shall mean any individual who is a life member of USS and NESI 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 NESI and USS. (See Section 2.1.2.F.)
- .30 "Local Swimming Committee" or "LSC" shall have the meaning ascribed thereto in the USS Code. NESI is a Local Swimming Committee.
- .31 "Member" shall mean a Group Member or an Individual Member.
- .32 "National Board of Review" shall mean the Board of Review of USS established pursuant to Part Four of the USS Code. Where the context requires, a reference to the National Board of Review shall include a reference to the USS Board of Directors when that body is acting upon an appeal from the National Board of Review.
- .33 "NESI" shall mean the Massachusetts not-for-profit corporation to which these Bylaws pertain.
- .34 "NESI Office" shall mean the permanent office of NESI maintained in accordance with Article 14.
- .35 "Nominating Committee" shall mean the committee of the House of Delegates charged with nominating candidates for elective offices of NESI. (See Section 4.8.)
- .36 "Officer" shall include Chairman, Administrative Vice-chairman, Secretary and Treasurer.
- .37 "Policies and Procedures Manual" shall mean the policies and procedures manual of NESI, as amended, adopted by the Board of Directors or the House of Delegates. If NESI does not have a Policies and Procedures Manual, then the reference shall mean the relevant meeting minutes, orders and resolutions of NESI.
- .38 "Parliamentary Authority" shall mean the authority and any special rules of order designated in Article 13.
- .39 "Section" shall mean the subdivisions of the articles of these Bylaws.
- .40 "Senior Athlete Representative" shall mean the Athlete Representative senior in term of office or, in cases where there are more than two Athlete Representatives, the Athlete Representative designated in accordance with Section 4.1.3.
- .41 "Senior Coach Representative" shall mean the Coach Representative senior in term of office. (See Section 4.1.4.)
- .42 "Standing Committee" shall mean a committee of NESI listed in Sections 7.1, 7.2 or 7.3.
- .43 "Territory" shall mean the geographic territory over which NESI has jurisdiction as a Local

Swimming Committee. (See Section 1.3.)

- .44 "USS" shall mean United States Swimming, Inc., an Ohio not-for-profit corporation which is the national governing body for the United States for the sport of swimming.
- .45 "USS Board of Directors" shall mean the Board of Directors of USS.
- .46 "USS Code" shall mean the code of rules and regulations, as adopted and amended by USS.
- .47 "USS House of Delegates" shall mean the House of Delegates of USS.
- .48 "USS Legislation Committee" shall mean the Legislation Committee of USS created pursuant to Article 512 of Part Five of the USS Code.
- .49 "USS Legislation Sub-Committee" shall mean the sub-committee of the Legislation and Redistricting Committee of USS created pursuant to Section 6202 of Part Six-C of the USS Code.

# APPENDICES TO THE LSC BYLAWS

## APPENDIX A

### QUESTIONS AND ANSWERS ABOUT RESOLVING DISPUTES

#### INTRODUCTION

The form of the LSC Bylaws was revised by USS in September of 1995. However, the basic structure used for resolving disputes has not changed. Member of USS who disagree with a decision or an action taken by a meet official or any other LSC officer or who have a swimming-related dispute with another member may appeal those decisions, 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 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 of 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 10 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 10.5.1.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 10.5.2); from a rehearing decision to a National Board of Review (Section 10.9); 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 10.4.1, 10.4.2 and 10.1 and Sections 401.2 and 401.3 of Part Four of the USS Code to determine where your appeal should go. Remember that the Board of Review does not involved 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 Bylaws now provide a step by step outline of the steps to be taken and procedures to be used when a protest occurs (Sections 10.5 and 10.6). 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 United States 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 10.6.1A) [If the LSC has a filing fee, this should be noted here.] (Check to see if your LSC has an office that will transmit the protest to the Chairman of the Review Section and follow up to find out when the Chairman actually received the protest.)

B. The Chairman of the 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 10.6.1 and the suggested form of Notice which is in Appendix B.)

D. Written statements of position may be filed by all parties to appeal. (See Section 10.6.1C 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 10.5.1D and 10.6.1E) 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 310.6.1F of Part Three of the USS Code and Section 10.6.2D 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 USS 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 10.6.2 of the Bylaws.

The Federal Law which created National Sports Governing Bodies such as United States 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 USS 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 10.6.1B  
(Form may, and should, be modified to fit the actual circumstances)

#### NOTICE OF HEARING

TO: [INSERT RESPONDENT'S NAME AND MAILING ADDRESS]

SUBJECT:

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

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

This charge is based upon a protest that was filed by [Insert 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 the hearing that is set in this Notice of Hearing. The hearing will proceed whether or not you filed this reply. (See Section 10.6.1C and 10.10.2.)

HEARING DATE, TIME AND PLACE:

The initial date set for the formal [or other type – see Section 10.5.1D] 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 10 of the Bylaws of XX Swimming, Inc. A copy of Article 10 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 10.4.5.)

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 10.5.2) The request must be filed with the Chairman of the Board of Review [here given 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 USS 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 10.9.) The address of the USS Executive Director is United States Swimming, Inc., 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, as 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].

Date (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.]