

DATE: January 22, 2008 Sent by e-mail from Carol Graham
With documents for the April 24th mtg

TO: LSC House of Delegates

FROM: Patty Kramer, Chair
LSC Rules Committee

SUBJECT: *Recent Rules Questions to the Rules Chair, and Answers*

Question: How do we determine the appropriateness of a Board of Review Member serving on a Review Panel?

Answer: LSC Bylaw 10.3.13, “Code of Conduct for Members of Board of Review,” identifies grounds for a member recusing himself/herself, or recusal by the Chair, or by a written request from a party, as well as procedures for so doing (Bylaw 103.3.13, attached).

Question: What is the liability for a LSC Review Board Member when the Board adjudicates on an issue and the LSC Review Board is sued in civil court? What are the implications for a member who is 18 years or younger?

Answer from Carol Burch, USA Swimming: “USA Swimming provides Directors and Officers insurance coverage for LSC Board of Directors and this included LSC Board of Review Members. Is the athlete is on the Board of Review that athlete would be covered. Bt the way, USA Swimming’s Director and Officers insurance coverage does NOT extend to the clubs.”

Question: What is the minimum number of members needed to hear an appeal to the LSC Board of Review?

Answer: LSC Bylaw 10.5.1.B reads “The Board of Review may, in the discretion of the Chair, conduct hearings either before the full Board of Review or before panels of its members, ...each panel shall have at least three (3) members.” A re-hearing requires at least seven (7) members.

Question: What is the minimum number of athlete members required for a LSC Board of Review hearing?

Answer: At the 2007 USA Swimming Convention, legislation passed requiring each LSC Board of Review to have at least twenty percent (20%) athlete representation.

Question: May the LSC Board of Review conduct a hearing following a LSC House of Delegates for appeals regarding fines less than \$200?

Answer from Carol Burch, USA Swimming, stated that she is against hearings following LSC HOD Meetings, especially that ending often after 9PM as their timing and review are likely to have a rush environment and doubtful focus.

Bylaw 10.3.13 Code of Conduct for Members of Board of Review; Recusal

- A. Code of Conduct: Members of the Board of Review shall:
- (1) Uphold the integrity and independence of the Board of Review
 - (2) Avoid any impropriety or even the appearance of impropriety in connection with service as a Board of Review member and swimming-related activities generally; and
 - (3) Perform the duties of Board of Review membership impartially and diligently.
- B. Grounds for Recusal: Members of the Board of Review shall recuse themselves from participating in any matter pending before the Board of Review:
- (1) In which their impartiality might reasonable 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 have an interest that could be substantially affected by the outcome of the proceeding; or
 - (4) 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 absence of the Chairman, the Vice-Chairman
- D. Recusal/Disqualification Requested by Party: By written notice to the Presiding Officer...any party may request that a member or members recuse himself/herself or themselves or be disqualified from serving on the pending matter stating the reasons for recusal or disqualification....

Remainder of bylaw 10.3.13.D summarized:

1. Member decides whether to recuse self.
2. If member does not recuse, Chair decides.
3. If Chair does not recuse member, review is conducted.
4. If review is conducted, party may appeal recusal decision.