

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 1 of 6**

*The following amendments to the New England Swimming, Inc. Bylaws were endorsed by the New England Swimming Board of Directors at their meeting on July 21, 2015. The New England Swimming Board of Directors recommends that these Bylaw amendments be adopted by the House of Delegates.*

**ADMINISTRATIVE REVIEW BOARD MOTION #1**

Background: At the 2014 USA Swimming House of Delegates Meeting, the LSC Boards of Review were replaced with new Zone Boards of Review. USA Swimming allowed for the creation of Administrative Review Boards within each LSC to hear complaints and appeals regarding administrative matters. Complaints and appeals involving alleged USA Swimming Code of Conduct violations will be heard by the Zone Board of Review. This Article 610 amendment is based on the template provided by USA Swimming.

*Amend the Bylaws of New England Swimming, Inc. (NESI) to include the following:*

**ARTICLE 610  
ADMINISTRATIVE REVIEW BOARD**

610.1 INTRODUCTION - USA Swimming was organized as the National Governing Body for the sport of swimming under the Amateur Sports Act of 1978, as amended by the Ted Stevens Olympic and Amateur Sports Act of 1998, both federal laws. These laws require USA Swimming to establish and maintain provisions for the swift and equitable resolution of all disputes involving any of its members. This Article, together with Section 602.2 and Part Four of the USA Swimming Rules and Regulations, are intended to provide a mechanism for resolving in an orderly and fair way all manner and kinds of disputes that may arise among its members in connection with the sport of swimming. Accordingly, NESI has established the Administrative Review Board to hear complaints and appeals regarding administrative matters within the LSC which do not rise to the level of Code of Conduct violations and are not appeals of sanction decisions. The Administrative Review Board shall have no jurisdiction to hear complaints regarding conduct that may violate the USA Swimming Code of Conduct or otherwise violate the policies, procedures, rules and regulations adopted by USA Swimming, or conduct that may bring USA Swimming, NESI or the sport of swimming into disrepute. This Article, together with Part Four of the USA Swimming Rules and Regulations, is intended to provide a fair hearing before a group of independent and impartial people. This Article and Part Four of the Rules shall be construed accordingly.

610.2 ADMINISTRATIVE REVIEW BOARD ORGANIZATION -

.1 Establishment - The Administrative Review Board of NESI shall be independent and impartial.

.2 Members - The Administrative Review Board shall have three (3) regular members, at least one of whom shall be an athlete member, and two (2) alternate members, at least one of whom shall be an athlete member. At least three members of the Administrative Review Board shall hear each case, with a sufficient number of athlete members to constitute at least twenty percent (20%) of its membership. No hearing shall proceed without the required athlete representation. The House of Delegates may increase the number of regular or 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, at its annual meeting, shall biennially elect regular and alternate members of the Administrative Review Board in odd-numbered years.

B. Term of Office - The term of office shall be two (2) years. Each member and alternate member shall assume office upon election and shall serve until a successor takes office.

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 2 of 6**

C. Eligibility - Each regular and alternate member of the Administrative Review Board shall be an Individual Member of NESI and USA Swimming. In no case shall members of the Board of Directors serve on the Administrative Review Board.

.4 Chair Elected by Board; Other Officers - The Chair of the Administrative Review Board (the "Chair") who must be a regular member, shall be elected biennially by a majority vote of the regular members of the Administrative Review Board. The Chair shall biennially appoint a Vice Chair and a Secretary of the Administrative Review Board, each of whom must be regular members.

.5 Meetings - The Administrative Review Board shall meet for administrative purposes as necessary, to elect the Chair, to adopt rules and procedures and to conduct other business as may be helpful or necessary to achieve the purposes of the Administrative Review Board and efficiently exercise its duties and powers. Other meetings may be called by the Chair or any two regular members. When meeting for administrative purposes, those provisions of Article 607 that are specified in Section 607.20 shall apply to the Administrative Review Board.

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

.7 Quorum - A quorum for any administrative meeting of the Administrative Review Board shall be fifty percent (50%) of its regular members.

.8 Resignations - Any regular or alternate member of the Administrative Review Board may resign by orally advising the Administrative Review Board Chair, or by submitting a written resignation to the Administrative Review Board Chair, the General Chair or the Board of Directors specifying an effective date of the resignation. In the absence of a specified effective date, any such resignation shall take effect upon the appointment or election of a successor.

.9 Incapacities and Vacancies - Determination of Vacancy or Incapacity - In the event of a vacancy in the office of the Chair, or other members of the Administrative Review Board, the LSC shall have in place reasonable written and published rules consistent with the laws of the state of incorporation of the LSC to determine when such membership on the Administrative Review Board becomes vacant or a Chair or member becomes incapacitated. The determination as to when the Chair is temporarily incapacitated shall be made, where the circumstances permit, by the Chair and otherwise shall be within the discretion of the Administrative Review Board, subject to any subsequent action of the Board of Directors.

.10 Substitutions for Member - In the event that a regular member of the Administrative Review Board is unable or unwilling to promptly act for any reason, recuses herself or himself or is disqualified in any particular circumstance, the Chair (or, if the person so unable or unwilling to act or recused or disqualified is the Chair, the Vice Chair; or failing that, the General Chair) shall appoint an alternate member or, if an alternate member is not available, a disinterested Individual Member of NESI to act in the regular member's place and stead in respect of that circumstance.

.11 Legal Advice - Where appropriate or helpful, the Chair may consult the USA Swimming General Counsel, the Chair of the USA Swimming Rules or Officials Committees or of the Bylaws Subcommittee or an attorney (who need not be a member of NESI, USA Swimming or the Administrative Review Board) retained by the Administrative Review Board or the Chair regarding any issue before the Board.

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 3 of 6**

610.3 GENERAL -

- .1 Administrative Powers - The Administrative Review Board shall have the powers and the duty to:
- Board,
- A. administer and conduct the affairs and achieve the purposes of the Administrative Review Board,
  - B. recommend policies, procedures and guidelines,
  - C. elect the Chair,
  - D. call regular or special meetings of the Administrative Review Board,
  - E. retain attorneys, agents and independent contractors and employ those persons which the Administrative Review Board may determine are appropriate, necessary or helpful in the administration and conduct of its affairs, and
  - F. take such action as may otherwise be appropriate, necessary or helpful in the administration and conduct of its affairs, the achievement of its purposes and the efficient exercise of its duties and powers.
- .2 Rule Making Powers - The Administrative Review Board shall have the power and the duty to recommend reasonable rules and procedures consistent with the corporation laws of the LSC with respect to any matter within its jurisdiction or appropriate, necessary or helpful in the administration and conduct of its affairs.
- .3 Exercise of Powers and Decisions - Except for authority and power granted to the Chair, the exercise of the authority and powers of the Administrative Review Board and the decision of matters which are the subject of a hearing shall be decided by a majority vote of the Administrative Review Board. The views of any dissenters shall be included in the record of the proceeding if requested by the dissenters. The exercise of the Administrative Review Board's authority and power shall lie solely in its discretion and the interests of justice and the sport of swimming.
- .4 Timeliness of Petition - The Administrative Review Board need not exercise its jurisdiction with respect to a complaint the subject matter of which occurred, or concerns or is founded on events which occurred, more than ninety (90) days prior to the date the complaint is received. A determination not to exercise its jurisdiction as a result of the untimeliness of a complaint may be made by the Chair alone and may be the subject of a request for rehearing and, thereafter, appeal to the Zone Board of Review pursuant to Part Four of the USA Swimming Rules and Regulations.

*Further amend section 606.2 of the Bylaws of New England Swimming, Inc. (NESI) as follows:*

606.2 ELECTIONS – The House of Delegates, at its annual meeting, shall elect the General Chair, the Administrative Vice-Chair, the Secretary, the Finance Vice-Chair, and the Senior Vice-Chair, in even-numbered years; and the Age Group Vice-Chair, the Treasurer, and the Technical Planning Chair in odd-numbered years. The House of Delegates shall also elect the ~~Board of Review~~ *Administrative Review Board* (see 610.3-3 610.2.3) and the Nominating Committee (see 604.8).

*Further amend section 616.2 (Definitions) of the Bylaws of New England Swimming, Inc. (NESI) as follows:*

- Strike section 616.2.13. [Definition of “Board of Review.”]
- Insert after section 616.2.1:  
“Administrative Review Board” shall mean the administrative appeals body of NESI established pursuant to Section 610.
- Renumber remaining sections 616.2.2 through 616.2.12 appropriately.

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 4 of 6**

*Further amend the Bylaws of New England Swimming, Inc. (NESI) as follows:*

- Replace any and all references to “Board of Review” with “Administrative Review Board” in the following sections:
  - 604.4.1 [House of Delegates: Election Duties]
  - 604.4.10 [House of Delegates: Removal from Office Powers]
  - 604.8.3 [Nominating Committee Duties]
  - 604.11 [Voting: Removal of a member of the Administrative Review Board]
  - 605.6 [Board of Directors Powers]
  - 606.9.3 [Vacancies: Other Offices]
  - 607.20 [Meeting Procedures]
  - 612.3 [Indemnified Persons]
- Replace any and all references to “Board of Review” with “Zone Board of Review” in the following sections:
  - 602.1.1 [Group membership appeals]
  - 602.1.2 [Individual membership appeals]
  - 602.1.3 [Membership termination]
  - 602.2.1 [Members’ Responsibilities / Compliance]
  - 603.9.5 [Failure to pay: Termination of Membership]
  - 612.2 [Indemnification: Exclusion]
- Replace any and all references to “Board of Review” with “LSC Administrative Review Board or Zone Board of Review” in the following sections:
  - 603.9.1 [Failure to pay: Group, Coach, Individual Members]
  - 603.9.2 [Failure to pay: Athlete Member]
  - 603.9.3 [Failure to pay: Club/Individual Obligations]
  - 603.9.4 [Failure to pay: Individual/Club Obligations]
  - 605.6.12 [Board of Directors Powers]
  - 609.1 [Individual Members’ Bill of Rights]
  - 609.2 [Club Members’ Bill of Rights]

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 5 of 6**

**ANNUAL MEETING ELECTIONS MOTION #1**

Background: This Bylaw amendment seeks to allow elections at the New England Swimming Annual Meeting to take place more efficiently.

*Amend the Bylaws of New England Swimming, Inc. (NESI) as follows:*

*Insert the following sections after Section 604.11:*

604.11.1: If the number of nominees is equal to the number of positions open to election, and if there is no objection from the House of Delegates, then the Chair shall declare the nominee(s) elected by acclamation.

604.11.2: In the case of elections for offices held by a single individual, the first ballot shall be cast with all nominees declared as eligible, and write-in votes shall be valid and shall be counted. If any candidate receives a majority of the votes, that candidate shall be declared the winner. If no candidate receives a majority of the votes, the two candidates receiving the largest number of votes shall advance to a run-off election to determine the winner. In the run-off election, any write-in vote shall be considered invalid. This process shall repeat until a candidate receives a majority of the votes in a run-off election, and is declared the winner.

604.11.3: In the case of elections for offices held by multiple individuals, the first ballot shall be cast with all nominees declared as eligible, and write-in votes shall be valid and shall be counted. The elected offices shall be filled with the candidates receiving the largest numbers of votes. If there is a tie such that the winner for one or more office positions cannot be determined, a run-off election shall be conducted between the candidates who tied to determine which candidate(s) shall fill the remaining vacancy or vacancies. In the run-off election, any write-in vote shall be considered invalid. This process shall repeat until each office is filled.

**NEW ENGLAND SWIMMING  
HOUSE OF DELEGATES MEETING  
SEPTEMBER 27, 2015  
PROPOSED BYLAW AMENDMENTS  
Page 6 of 6**

**BOARD OF DIRECTORS MOTION #1**

Background: Expand the New England Swimming Board of Directors to include the New England Safe Sport Chair and the New England Officials Chair. In addition, one additional Athlete Representative will be added, as well as two additional At-Large Board of Directors members.

*Amend the Bylaws of New England Swimming, Inc. (NESI) as follows:*

604.1.3: ATHLETE REPRESENTATIVES – ~~Four (4)~~ *Five (5)* Athlete Representatives shall be elected, ~~two each year three in odd-numbered years and two in even-numbered years~~ for a two-year term or until their respective successors are elected or take office. *[Remainder unchanged.]*

605.1 MEMBERS – The Board of Directors shall consist of the following officers, committee chairs, coordinators and representatives of NESI, together with those additional members designated in Sections 605.2 and 605.3:

- .1 General Chair
- .2 Administrative Vice-Chair
- .3 Senior Vice-Chair
- .4 Age Group Vice-Chair
- .5 Finance Vice-Chair
- .6 Secretary
- .7 Treasurer
- .8 Coach Representatives (2)
- .9 Athlete Representatives ~~(4)~~ (5)
- .10 Safety Coordinator
- .11 Technical Planning Chair
- .12 Inclusion Chair
- .13 *Safe Sport Chair*
- .14 *Officials Chair*
- ~~.13~~ .15 At-Large Board Members ~~(up to 4)~~ *(up to 6)*

605.2: AT-LARGE BOARD MEMBERS – The Board of Directors shall have ~~four (4)~~ *six (6)* 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 ~~four (4)~~ *six (6)*. 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.

606.7.12: SAFE SPORT CHAIR - The Safe Sport Chair shall be responsible for the implementation and coordination of, and serve as the NES liaison for, the Safe Sport Program established by USA Swimming. The Safe Sport Chair shall chair the NES Safe Sport Committee. The Safe Sport Chair shall be a non-athlete member in good standing, and shall work with the USA Swimming Safe Sport staff and the USA Swimming Safe Sport Committee and the NES Safe Sport Committee to implement pertinent aspects of the national Safe Sport Program within NES.

606.7.13: OFFICIALS CHAIR - The Officials Chair shall chair the Officials Committee which is responsible for recruiting, training, certifying and supervising officials for NESI. The Officials Chair shall be a referee certified by NESI and each member of the Officials Committee shall be a certified official of NESI.

*Renumber existing 606.7.12 to 606.7.14.*

*Renumber existing 606.7.13 to 606.7.15.*