

BOARD OF REVIEW General Issues:

1) Total Members: Historically (9) nine regular members minimum. LSCs complained that this was too high a number. USA Swimming argues LSCs need at least nine since there would be conflict of interests/recusals/unavailability, etc. In 2008, [required] Model Bylaw was changed to a minimum of 5 regular and 3 alternate. USA Swimming says IDEAL # is 9 regular and 5 alternates and even the smallest LSC should have 7 regular and 4 alternates. **2) 20 % Rule of Athlete Members:** Federal Law (according to USA Swimming) requires 20% athlete membership on not only the BOR in general but on any hearing panel. Thus, if 9 (or 8) members in BOR, you must have 2 athlete members. If hearing panel is three members, you must have at least one athlete on the hearing panel. **3) Not too many BODirectors members on BOR:** Bylaws also state that those BOR members that are also BOD members cannot constitute a majority on the BOR. Thus, if 9 (or 8) member BOR, maximum number of BODs is 4.

2008 Model Bylaws Template Language (effective Sept 1, 2008)

MEMBERS

The Board of Review shall have *at least five (5) regular members and at least three (3) alternate members*. The Board of Review, and any panel hearing a case, shall have a sufficient number of athlete members to constitute at least 20% of its membership. 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. When a matter is being heard by less than the full Board of Review, the panel hearing the case shall include a sufficient number of athlete members so as to constitute at least 20% of the hearing panel. No hearing shall proceed without the required athlete representation.

MS Proposal:

10.3.2 MEMBERS:

A) The Board of Review shall consist of 8 members and these members are generally elected at the annual House of Delegates meeting (10.3.3(A)). However, the Senior Athlete and Junior Athlete Representatives are *automatic* members of the Board of Review. If at any time during the year there are insufficient numbers of members on the Board of Review to adequately conduct hearings or to conduct the general business of the Board of Review, the General Chair may appoint individual(s) to be on the Board of Review to remedy the deficiency. These appointees shall not also be current Directors.

B) Other than the Senior and Junior Athlete Members, it is preferred that BOR members are also not on the Board of Directors of MS. In no case shall elected members of the Board of Directors constitute a majority of the Board of Review (that is, no more than 4 Directors may serve concurrently as Board of Review members). Accordingly, since the two athlete members are also Directors, as a general rule, no more than two (2) Directors can be elected to the Board of Review on an annual basis. However, if there is already the maximum number of 4 Directors currently serving, then a Director would be barred from seeking election to the Board of Review.

C) The House of Delegates may *increase* the number of BOR members at the annual meeting of the HOD, however, may only *decrease* the number of regular members upon the expiration of the term of office of any incumbent member [that is, incumbents may not be disenfranchised at the HOD].

D) 20% Athlete Representation Rule: The Board of Review [and any Hearing Panel of less than the full membership of the Board of Review] shall have a sufficient number of athlete members to constitute at least 20% of its membership. No hearing shall proceed without the required 20% athlete representation. (Hearing Panels of 3 must have at least 1 athlete, etc for larger number of hearing panel members).

10.3.3 ELECTION; TERM OF OFFICE; ELIGIBILITY

A. The House of Delegates shall annually elect 3 members in even numbered years and 3 members in odd numbered years.

10.3.4 CHAIRMAN ELECTED FROM WITHIN BOARD OF REVIEW; VICE CHAIR; SECRETARY

The Chairman, the Vice Chair and the Secretary of the Board of Review must be members of the BOR. Athlete Representatives cannot Chair the BOR. The current Vice Chair shall automatically become the new Chair if the existing Vice Chair has a year remaining in his/her term [unless the Vice Chair declines the post of Chair]. If a vacancy then exists in the position of Chair of the BOR, then the Chair shall be elected by majority vote of the members of the BOR. The elected Chair may then appoint a Vice Chair and a Secretary from the remaining members of the Board of Review, with their consent. It is suggested that the positions of Chair, Vice and Secretary be determined at a short BOR meeting which immediately follows the annual HOD meeting.