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Date: October 7, 2015
To: General Chairs Board of Directors, USA Swimming
Officials Chairs USA Swimming Officials
Rules & Regulations Committee USA Swimming Coach Members
From: Jay Thomas, Chair, Rules & Regulations Committee
Re: 2015 House of Delegates – Legislation with Immediate Effective Date

1. On October 3, 2015, the USA Swimming House of Delegates met in Kansas City, Missouri.
2. There were eight pieces of legislation that the House passed that are effective immediately. They are listed below.

R-3 ADOPTED Effective Immediately

Location: Page 29 – **102.8 Swimwear**

102.8 SWIMWEAR

.1 Design

A Swimwear shall include only a swimsuit, cap, and goggles. It is not permissible to wear more than two (2) caps. Armbands or leg bands shall not be regarded as parts of the swimsuit and are not allowed.

R-11 ADOPTED Effective Immediately

Location: Page 67 – **Article 203 Representation**

**ARTICLE 203
REPRESENTATION**

203.1-2 [no changes]

203.3 For a swimmer to represent a USA Swimming club in a competitive event, one hundred twenty (120) consecutive days must have elapsed before the swimmer is permitted to represent any other USA Swimming club in USA Swimming open or closed competition. The 120 day count shall begin on the day following the last date the athlete represented a USA Swimming club in open competition.

R-12 ADOPTED Effective Immediately

Location: Page 99 – **Article 303 Eligibility**

**ARTICLE 303
ELIGIBILITY**

303.1-4 [no changes]

303.5 No Individual Member or Group Member of USA Swimming shall coach, train or provide swimming-related advice or service to any swimmer who is serving a period of ineligibility or provisional suspension for an anti-doping rule violation.

[re-number remaining]

R-13 ADOPTED Effective Immediately

Location: Page 99 – Article 303 Eligibility

**ARTICLE 303
ELIGIBILITY**

303.1-.5 [no changes]

303.6 If a swimmer is required to forfeit any medals, points or prizes earned at an event on account of an anti-doping rule violation, then any compensation paid by USA Swimming to the swimmer's coach(es) on account of that swimmer's result shall also be forfeited and shall be returned to USA Swimming.

[re-number remaining]

R-14 ADOPTED Effective Immediately

Location: Page 14 – Official Glossary
Page 100 – Article 304 code of Conduct
Page 104 – Article 306 Sexual Misconduct Reporting Requirements
Page 104 – Article 307 Prohibitions Against Retaliation for Good Faith Reporting of Abuse
Page 109 – 405. 2 Investigation of Complaints

Purpose: To remove athlete-on-athlete bullying as a violation of the Code of Conduct, except in the most egregious and flagrant situations and allow the investigation and resolution of such bullying to be handled by the local club.

**OFFICIAL GLSSARY
Swimming Words and Terms**

BULLYING – the severe or repeated use, regardless of when or where it may occur, by one or more USA Swimming members of an oral, written, electronic or other technological expression, image, sound, data or intelligence of any nature (regardless of the method of transmission), or a physical act or gesture, or any combination thereof, directed at any other member or Participating Non-Member that to a reasonably objective person has the effect of: (i) causing physical or emotional harm to the other person or damage to the other person's property; (ii) placing the other person in reasonable fear of harm to himself/herself or of damage to his/her property; (iii) creating a hostile environment for the other person at any USA Swimming activity; (iv) infringing on the rights of the other person at any USA Swimming activity; or (v) materially and substantially disrupting the training process or the orderly operation of any USA Swimming activity (which shall include, without limitation, practices, workouts and other events of a member club, LSC or Zone).

**ARTICLE 304
CODE OF CONDUCT**

304.1-2 [no changes]

304.3 The following shall be considered violations of the USA Swimming Code of Conduct:

.1-.6 [no changes]

.7 [deleted]

[re-number remaining]

.12 Abuse

A Physical abuse of an athlete by any person who, in the context of swimming, is in a position of authority over that athlete. "Physical abuse" is defined as a non-accidental injury and/or an injury primarily caused by the gross negligence on the part of the person in a position of authority over the athlete.

B Bullying of an athlete by a coach member or other non-athlete member who is in a position of authority over that athlete.

.13 Bullying of a member or Participating Non-Member of USA Swimming by a non-athlete member. Allegations of Bullying of an athlete member by a coach member shall be investigated under 304.3.12. Bullying of an athlete member of USA Swimming by another athlete member shall not be considered a Code of Conduct violation, except in the most egregious and flagrant situation, but is nevertheless a serious matter to be handled by the applicable club(s) pursuant to its anti-bullying plan required under 305.6.

[re-number remaining]

306.1 It is every member's responsibility to promptly report any incident regarding sexual misconduct by a member as described in Article 304.3.7 to USA Swimming's Director of Safe Sport. Reporting must occur when an individual has firsthand knowledge of misconduct or where specific and credible information has been received from a victim or knowledgeable third party. Various state laws may also require reporting to law enforcement or to a designated child protection agency.

307.1 No Member shall retaliate against any individual who has made a good faith report under 306.1 or 304.3.12.

307.2 For the purposes of 307.1, there shall be a rebuttable presumption that any adverse action regarding the employment, membership, or other material rights of an individual who has made a good faith report under 306.1 or 304.3.12 within 90 days of a report is retaliatory. An adverse action includes, without limitation: discharge or termination; demotion or reduction in compensation for services; or the removal of or from, or restrictions on, access to facilities, team activities or team membership privileges

405.2 INVESTIGATION OF COMPLAINTS

.1-2 [no changes]

.3 In those matters involving an alleged violation of 304.3.12 or 304.13 by a coach, a committee of three coaches appointed by the President of USA Swimming shall make a determination with such investigative assistance by the Executive Director or his/her designee as the committee may request and report as to whether the coach's conduct is outside the customary and acceptable bounds of coaching.

.4 In all other matters the Executive Director or his/her designee shall make the investigation and report.

R-17 ADOPTED Effective Immediately

Location: Page 109 – **405.1 Filing Complaints**

405.1 FILING COMPLAINTS — All complaints within the exclusive jurisdiction of the National Board of Review as set out in 403.2.1A through D above shall set forth the allegations and be filed with the Executive Director of USA Swimming, who shall promptly perform an initial inquiry and, as appropriate, initiate an investigation of the matter as set forth below.

R-18 ADOPTED Effective Immediately

Location: Page 118 – **Article 410 Confidentiality**

ARTICLE 410 CONFIDENTIALITY

410.1 [no changes]

410.2 All investigations conducted by the Executive Director or his/her designee regarding alleged Code of Conduct violations and all proceedings before the National Board of Review and the Board of Directors regarding alleged Code of Conduct violations shall be and remain confidential until the National Board of Review, or Board of Directors if an appeal is filed, has rendered its final decision, except:

- .1 Information that is necessary to disclose in the course of an investigation to witnesses and other appropriate parties;
- .2 Information disclosed pursuant to subpoena or court order;
- .3 Information disclosed to complaining parties or victims;
- .4 Information disclosed by USA Swimming in response to disclosures by other parties or witnesses in the proceeding; and
- .5 Information disclosed to law enforcement.

For the purposes of this Article 410.2, a decision shall be considered final when either: (i) the National Board of Review has rendered its final decision and the 30-day appeal period has run without an appeal being filed; or (ii) a party has appealed the decision of the National Board of Review to the Board of Directors and the Board of Directors has rendered its final decision on such appeal.

410.3 USA Swimming shall also disclose information, including but not limited to the initiation of a National Board of Review proceeding and its outcome, to a member club, LSC or Zone where an employee or volunteer of such club, LSC or Zone has been alleged in a complaint to have violated the Code of Conduct.

410.4 A redacted summary of each final Decision of the National Board of Review and Board of Directors that includes a finding of a violation of the Code of Conduct may be published at the discretion of USA Swimming

Location: Required LSC Bylaws – 602.1 Members

602.1 MEMBERS - The membership of XXSI shall consist of the following:

The LSC may add additional criteria for membership, but in the case of Club and Seasonal Club Members, Athlete, Coach and Active Individual Members, any additional criteria must be approved by the USA Swimming Rules and Regulations Committee as being reasonable and in the interest of swimming.

.1 [no changes]

LSC functions, duties and powers which are to be assigned to neither an officer nor a committee that has at least two members shall be assigned to a “Coordinator” rather than continuing the fictional term “Committee”. For example, in most LSCs the Membership and Registration functions have over time gone from two true committees to one person performing both functions. For those LSCs, the correct reference in the Bylaws would be to a Membership/Registration Coordinator. The choice presented is between a combined Membership/Registration or separate Membership and Registration functions (although only the Membership function is relevant here) must be consistent throughout the Bylaws.

A.-C. [no changes]

LSCs without seasonal members may omit this paragraph.

.2 INDIVIDUAL MEMBERS - Individual Members are individuals involved in the sport of swimming in the Territory who have, upon registration, been granted membership in USA Swimming and XXSI and paid the dues established by USA Swimming and XXSI pursuant to Article 603 hereof. *Except for Life members, an individual who wishes to register as an unattached member of XXSI and is not affiliated with any Club Member of XXSI must reside within the geographical territory of XXSI. An individual may be denied membership by the ~~Membership/Registration~~ ~~Chair~~ or ~~Coordinator~~ or ~~Registration~~ ~~Chair~~ or ~~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 USA Swimming Rules and Regulations, the rules, regulations, policies, procedures and codes of conduct and ethics of XXSI and USA Swimming and may be terminated by a decision of the Board of Review or the National Board of Review. *Except for Affiliated Individual Members and Life Members, Individual Members in good standing shall be entitled to participate in the program of swimming conducted by XXSI, and competitions sanctioned or approved by USA Swimming, in accordance with Section 609.1.**

[no further changes]

3. Members should refer to the USA Swimming website – Rules and Regulations page for the complete package of rules adopted by the House of Delegates at this meeting.



Jay Thomas
Chair, USA Swimming Rules & Regulations Committee