

## **New England LMSC Grievance Procedure**

### **Grounds for Grievances**

Any individual member of the New England LMSC and/or any Club member of the NELMSC may bring a complaint on any matter for which grievances may be heard under Part 4 of the [USMS Rule Book](#), including alleged unsporting conduct as defined in Article 402:

- 402.4.1 Violation of the opportunity to participate, as set forth in Article 401.
- 402.4.2 Discrimination in violation of article 501.3.
- 402.4.3 Any act of fraud, deception, or dishonesty in connection with any USMS-related activity.
- 402.4.4 Knowingly providing false information including name, date of birth, age, or gender on USMS membership applications or meet entries.
- 402.4.5 Any nonconsensual physical contact, obscene language or gesture, or other threatening language or conduct directed toward volunteers or staff in connection with a USMS event.
- 402.4.6 Any nonconsensual sexual conduct, pattern of unwelcome sexual advances, or other inappropriate sexually oriented behavior or action by a USMS member toward a member or any other person participating in any capacity whatsoever in the affairs or activities of USMS.
- 402.4.7 Any act, conduct, or omission that is detrimental to the image or reputation of USMS, an LMSC or the sport of swimming.
- 402.4.8 Causing a credible and material risk to the safety of USMS members or others who may be present during USMS activities. A lifetime ban, declaration of permanent ineligibility, or permanent resignation of membership from a member organization of United States Aquatic Sports may be considered as evidence of a violation of this Article 402.4.8.
- 402.4.9 Aiding or abetting another to engage in any of the foregoing violations.

### **Complaint Procedure**

1. A complaint shall consist of a concise statement of the behavior or circumstance involved, shall be in writing, and signed by the person responsible for making the complaint. The complaint shall clearly identify the person or entity making the complaint and the person or entity against whom the complaint is made. The complaint shall be directed only to the Grievance Chair. (If the Grievance Chair is a party to the complaint, a neutral person shall be appointed to chair the grievance.)
2. Upon receipt of a complaint, the Grievance Chair shall first make a determination whether the subject matter involves an issue for which a grievance may be brought under Part 4 of the USMS Rule Book and involves a person or entity which is part of the LMSC. If the Grievance Chair determines that the complaint does not meet such criteria, the Grievance Chair shall dismiss the complaint and notice of same shall be transmitted to the party bringing the complaint and to the Chair of the LMSC.

3. If the Grievance Chair does not dismiss the complaint, the Grievance Chair shall transmit a copy of the complaint to all other parties involved. The parties to any controversy shall be the USMS member or entity that makes the complaint, the USMS member or entity that is the subject of a complaint, and, if appropriate, the LMSC. In the event there are multiple parties or varying interests, any interested person may ask the Grievance Chair to (or the Chair may of its own volition) realign the parties according to their interest in the matter.
4. The parties other than the complaining party shall have the right to make a written reply, which shall consist of a concise statement of any matter of defense to the complaint, and which shall be made within twenty days from the date the copy of the complaint is transmitted by the Grievance Chair. Replies shall be in writing and signed by the person responsible for making the reply. The Grievance Chair shall advise all parties in writing of their hearing rights under these guidelines, as well as their appeal rights under Part 4 of the USMS Rule Book. The Grievance Chair, for reasonable grounds, including excusable neglect, may extend any time limit.

### **Mediation or Resolution by the Grievance Chair**

1. After all parties have transmitted written statements to the Grievance Chair (or if the time for same has passed without a statement being transmitted), the Chair shall attempt to resolve the controversy by mediation. The method of mediation shall be at the discretion of the Chair. Methods of mediation may include (without limitation) in-person contact, telephone contact, or communication by writing or e-mail. If mediation is successful, the agreement shall be reduced to writing, signed by the parties, and transmitted to the LMSC Chair.
2. If a party who is the subject of a complaint fails to make a reply, but other parties have replied, then the Grievance Chair may proceed to mediation under this section, or to a hearing under the following section.
3. If no party who is the subject of a complaint makes a reply, then the Grievance Chair may act on the complaint as filed or may take evidence or information from any source. The Grievance Chair shall make such findings as appear to be justified and reasonable to resolve the controversy. Findings shall be reduced to writing and transmitted to the parties and to the LMSC Chair.

### **Hearing Procedure**

1. If no agreement can be reached, the Grievance Chair shall convene a hearing panel to resolve the controversy. The Grievance Chair shall designate three members of the LMSC to act as a panel to resolve the grievance and all matters related thereto. The Chair shall preside over the hearing and give counsel to the panel concerning procedural matters and USMS rules, but shall have no vote.
2. The hearing panel shall take such statements and evidence as it deems necessary to resolve the controversy, and shall, wherever possible, take evidence from all persons identified by a party as having material information. A party to the controversy shall be responsible for making any such witness or evidence available. If the panel deems it necessary to hear testimony, then the Chair may appoint one member to take such evidence and report to the panel. Any cost of production of evidence shall be advanced by the party on whose behalf such evidence is taken.

3. Upon completion of presentation of evidence, the hearing panel shall, by majority vote, resolve the controversy in the form of a written decision. The decision, including any dissent, shall be reduced to writing and transmitted to all parties and the LMSC Chair. If the hearing panel does not dismiss the complaint, it may deny membership in the LMSC, censure, place on probation, suspend, fine or expel from LMSC membership any member or any person participating in the affairs of USMS who has engaged in any unsporting conduct set forth in Part 4 of the USMS Rule Book. If a person is expelled from the LMSC, such action shall be transmitted by the Grievance Chair to the National Board of Review for further action, if any, it deems necessary.
4. Upon rendering of a final decision, the Grievance Chair shall notify all parties in writing of their right to appeal to the National Board of Review under Part 4 of the USMS Rule Book. The LMSC may stay the imposition of any penalty pending appeal to the National Board of Review.