

LMSC Grievance Procedure

WHEREAS the Georgia LMSC (the LMSC) has determined that a written grievance procedure is needed to implement the policies of United States Masters Swimming (USMS) as expressed in the Rules of USMS concerning member rights and standards of conduct under Part 402 thereof (hereinafter "Part 4"),

The following grievance procedure is adopted by the Georgia LMSC: *[Note to LMSCs: The preceding paragraph and this introductory sentence are for passage of your bylaw amendment and will not become part of the grievance provisions in your bylaws.]*

Grounds for Grievances

Any individual member of the LMSC and/or any Club member of the LMSC may bring a complaint on any matter for which grievances may be heard under Part 4. Specifically, complaints may be brought alleging unsporting conduct defined in Part 4 as:

- a. Violation of the opportunity to participate, as set forth in Part 4.
- b. Unsporting Conduct as defined in 402.4

Complaint Procedure

1. A complaint shall consist of a concise statement (no longer than five (5) pages single spaced with 12 point font) of the behavior or circumstance involved, shall be in writing in the form attached as an Exhibit to these Procedures, 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 LMSC Vice Chair, who will then act as the Grievance Chair.

1. Any complaints, statements, findings, notices or decisions may be sent by email to the address provided by the recipient. Any complaint should be made within 30 days of the incident.

2. Upon receipt of a complaint,

a. 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 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.

b. The Grievance Chair will next review the complaint that is submitted to determine if the information in the form is complete, so that the Grievance Chair can review the substance of the claim(s) made. If it is incomplete, the Grievance Chair may request further information before any review is made.

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, including all persons named in the complaint. 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. a. The parties other than the complaining party shall have the right to make a written reply, which shall consist of a concise statement (no longer than five (5) pages single spaced with 12 point font) 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.

b. Any other party to whom the complaint is sent shall have the right to make a written reply, which shall consist of a concise statement (no longer than five (5) pages single spaced with 12 point font) of any matter providing further

facts and information related 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.

c. 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.

d. The Grievance Chair, for reasonable grounds, including excusable neglect, may extend any time limit, or any page limit for any filing or reply, but is not required to do so. All proceedings will be conducted among the parties, witnesses and LMSC panel, without legal representation before the panel.

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 upon notice to the parties, the Grievance Chair may proceed to mediation under this section, or to a hearing under the following section. Mediation must be completed within (60?)days of receipt of all requested replies.

3. If no party who is the subject of a complaint makes a reply, then the Grievance Chair will convene a hearing on the complaint as filed, and may take evidence or information from any source. .

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 neutral members of the LMSC to act as a panel to resolve the grievance and all matters related thereto. A neutral panel is one where no member is involved in, or is harmed or benefited by any decision in the dispute. The Chair shall preside over the hearing and give counsel to the panel concerning procedural matters and USMS rules, but shall have no vote. Since the participants hearing and mediating a dispute are volunteers, the Grievance Chair may impose costs on the requesting party if the page limit is extended or the hearing takes a lengthy period of time.

2. The hearing panel shall take such additional statements and evidence as it deems necessary to resolve the controversy, but is not required to do so if the responses to the complaint are sufficient to resolve the dispute. The hearing panel 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. Testimony may be taken by phone or through written or email communication. 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 persons named in the complaint and the LMSC Chair in the format attached as an exhibit to these procedures. Transmission may be made by email. If the hearing panel does not dismiss the complaint, it may deny membership in the LMSC, censure, place on probation, suspend, 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. If a person is expelled from the LMSC, such action shall be transmitted by the Grievance Chair to the National Board of Review Chair for further action, if any, it deems necessary. A decision may recommend that USMS enforce the decision in all LMSCs, and the National Board of Review may concur in that recommendation (and will inform all LMSCs if it does so).

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. The LMSC may stay the imposition of any penalty pending appeal to the National Board of Review.

RECOMMENDED FORM OF
GRIEVANCE STATEMENT

Please complete all the questions on this form so that your grievance can be evaluated. If you do not complete the form, then the Grievance Chair can ask you to file a more complete submission before any review of your claim can be made.

Any Grievance Statement that is longer than 5 pages may be rejected by the Grievance Chair.

1. This Grievance is brought by:

[List names of the persons and organizations that are submitting this claim]

2. To complain about the conduct of:

[List names of the persons whose conduct gives rise to the claim]

3. Here is the conduct that we believe is unsportsmanlike:

[Summarize the behavior in ½ page or less]

4. Here is what happened to create this claim:

[Explain what happened, where, who took what actions and made what claims]

5. I (We) believe this conduct is unsportsmanlike because:

[specify the reason(s)]

6. Remedies:

[Spell out what outcome you would like]

7. Are any USMS Rules violated as a result of this conduct?

[Specify those Rules]

8. Who can provide further information on this claim? Were they present when the conduct occurred?

[Please specify]

Submitted by:

[Name]

[Email address]

[Phone number]

FORM OF DECISION

1. Parties

[Identify the parties to the dispute]

2. Complaint:

[Summarize the complaint that was submitted for decision]

3. Members of Hearing Panel and their role in the LMSC

[specify names and roles]

4. Decision:

[Spell out whether there was unsportsmanlike conduct and if so, identify what actions were unsportsmanlike]

4. Remediation:

[What needs to happen to resolve the issue]

5. Basis for Decision:

[Summarize what testimony was reviewed, who made statements, what was said, and why that evidence supports the decision]

Signatures of Parties: