

## ARTICLE 304 CODE OF CONDUCT

**304.1** The mission of USA Swimming is to encourage participation and the pursuit of excellence in all aspects of swimming. USA Swimming grants the privilege of membership to individuals and organizations committed to that mission. The privilege of membership may, therefore, be withdrawn or denied by USA Swimming at any time where USA Swimming determines that a member or prospective member's conduct is inconsistent with the mission of the organization or the best interest of the sport and those who participate in it.

In order to assist all members to better serve the interests of those who participate in swimming, USA Swimming has adopted this Code of Conduct.

**304.2** Any member, former member, or prospective member of USA Swimming is subject to the jurisdiction of the Board of Review. Any member, former member, or prospective member of USA Swimming may be denied membership, censured, placed on probation, suspended for a definite or indefinite period of time with or without terms of probation, fined or expelled from USA Swimming for life if such person violates the provisions of the USA Swimming Code of Conduct, set forth in 304.3, or aids, abets or encourages another person to violate any of the provisions of the USA Swimming Code of Conduct. USA Swimming shall initiate an investigation of any former member of USA Swimming when a report required under 306.1 is received.

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

- .1 Violation of the right to compete provisions set forth in Article 301.
- .2 Violation of the anti-doping provisions set forth in 303.3.
- .3 Discrimination in violation of the Amateur Sports Act which requires that USA Swimming must provide an equal opportunity to athletes, coaches, trainers, managers, administrators, and officials to participate in the sport of swimming. Athletes must be allowed to participate and compete to the fullest extent allowed by the Rules and Regulations. Discrimination against any member or participant on the basis of age, gender, race, ethnicity, culture, religion, sexual orientation, gender expression, genetics, mental or physical disability, or any other status protected by federal, state or local law, where applicable, is prohibited.
- .4 Violation of any of the Athlete Protection Policies set forth in Article 305
- .5 Violation of any of the Sexual Misconduct Reporting Requirements set forth in Article 306.
- .6 Conviction of, imposition of a deferred sentence for, or any plea of guilty or no contest at any time, past or present, or the existence of any pending charges, for (i) any felony, (ii) any offense involving use, possession, distribution or intent to distribute illegal drugs or substances, (iii) any crime involving sexual misconduct, or (iv) any criminal offense against a minor.
- .7 Bullying is prohibited. For the purposes of the Code of Conduct, the term "Bullying" shall mean, regardless of when or where it may occur, the severe or repeated use by one or more USA Swimming members ("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 that to a reasonably objective person has the effect of: (i) causing

physical or emotional harm to the other Member or damage to the other Member's property; (ii) placing the other Member in reasonable fear of harm to himself/herself or of damage to his/her property; (iii) creating a hostile environment for the other Member at any USA Swimming activity; (iv) infringing on the rights of the other Member at any USA Swimming activity; or (v) materially and substantially disrupting the training process or the orderly operation of any USA Swimming activity (which for the purposes of this section shall include, without limitation, practices, workouts and other events of a member club or LSC). Allegations of Bullying of an athlete by a coach shall be investigated under 304.3.13.

- .8 A Any inappropriate sexual conduct or advance, or other inappropriate oral, written, visual, or physical conduct of a sexual nature at any time, past or present, directed towards an athlete or any person under the age of eighteen (18) by (i) a coach member or other non-athlete member, or (ii) any other adult participating in any capacity whatsoever in the activities of USA Swimming (whether such adult is a member or not).
- B Any act of sexual harassment, including without limitation unwelcome sexual advances, requests for sexual favors, and other inappropriate oral, written, visual, or physical conduct of a sexual nature in connection with or incidental to a USA Swimming-related activity by any person participating in the affairs or activities of USA Swimming (whether such person is a member or not) directed toward any member or other person participating in the affairs or activities of USA Swimming.
- C A romantic or sexual relationship, even if it is a consensual relationship between adults, which began during the swimming relationship, between athletes and those individuals (i) having direct supervisory or evaluative control, or (ii) who are in a position of power and trust over the athlete. Except in circumstances where no imbalance of power exists, coaches have this direct supervisory or evaluative control and are in a position of power and trust over those athletes they coach. The prohibition on romantic or sexual relationships does not include those relationships where it can be demonstrated that there is no imbalance of power. For example, this prohibition does not apply to a relationship between two spouses or life partners which existed prior to the swimming relationship. For factors that may be relevant to determining whether an imbalance of power exists, consult the USOC's Safe Sport Policies at [www.teamusa.org/Footer/Legal/Governance-Documents](http://www.teamusa.org/Footer/Legal/Governance-Documents).
- D Any peer-to-peer sexual abuse. For the purposes of the Code of Conduct, the term "peer-to-peer sexual abuse" shall mean any unwelcome physical conduct of a sexual nature directed towards a minor athlete by another minor athlete.
- .9 The sale or distribution of illegal drugs or the illegal sale or distribution of any substance listed on FINA's recognized list of banned substances.
- .10 The use of illegal drugs in the presence of an athlete, by a coach, official, trainer, or a person who, in the context of swimming, is in a position of authority over, that athlete.
- .11 The providing of alcohol to an athlete by a coach, official, trainer, manager or any other person where the athlete is under the legal age allowed to consume or purchase alcohol in the state where the alcohol is provided.
- .12 The abuse of alcohol in the presence of an athlete under the age of eighteen (18), by a coach, official, trainer, or a person who, in the context of swimming, is in a position of authority over that athlete.

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#### .13 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.

#### .14 For any USA Swimming member club or coach to knowingly:

- A allow any person who has been placed on the USA Swimming list of "Individuals Permanently Suspended or Ineligible" to coach or instruct any of its athlete members,
- B aid or abet coaching or instruction of athletes by any person who has been placed on the USA Swimming list of "Individuals Permanently Suspended or Ineligible," or
- C allow any person who has been placed on the USA Swimming list of "Individuals Permanently Suspended or Ineligible" to have an ownership interest in such USA Swimming club or its related entities.

#### .15 Any act of fraud, deception or dishonesty in connection with any USA Swimming-related activity.

#### .16 Any non-consensual physical contact, obscene language or gesture, or other threatening language or conduct directed towards any meet official and which is related to any decision made by such official in connection with a USA Swimming sanctioned competition.

#### .17 Action, other than through general advertising, by a coach, owner, officer, volunteer, representative, or employee of a swim club, or a USA Swimming or LSC employee, either through direct contact with an athlete or the encouragement of others, to recruit or otherwise encourage an athlete who is already a member of a USA Swimming member swim club to leave that club, unless the acting party receives prior written approval to recruit or encourage the athlete to change affiliation from the designated club representative of the athlete's existing USA Swimming-member swim club or contact is initiated by the athlete, the athlete's parent or authorized representative. General advertising includes any information that is:

- A Distributed to an identifiable general population where there is a reasonable expectation that the majority of that population are not current members of USA Swimming, or
- B Placed in or on any item that is sold.

In the event of a violation of this section, a sanction may be imposed against any coach, owner, officer, volunteer, representative or employee of a swim club, or against any such club, or any combination thereof, as appropriate.

#### .18 Violation of any team misconduct rule as established by the USOC, USA Swimming, any Zone or LSC team authority.

#### .19 Any other material and intentional act, conduct or omission not provided for above, which is detrimental to the image or reputation of USA Swimming, a LSC or the sport of swimming.

## ARTICLE 305

### ATHLETE PROTECTION POLICIES

The following policies related to Athlete Protection are mandatory components of the USA Swimming Code of Conduct:

**305.1** Inappropriate touching between an athlete and an adult non-athlete member or Participating Non-Member (as defined in 401.1) is prohibited, including, but not limited to, excessive touching, hugging, kissing, sexually oriented behavior, sexually stimulating or otherwise inappropriate games, and having an athlete sit on a non-family member adult's lap.

**305.2** Any rubdown or massage performed on an athlete by any adult member or Participating Non-Member, excluding the spouse, parent, guardian, sibling, or personal assistant of such athlete, is prohibited unless such adult is a licensed massage therapist or other certified professional. Any rubdown or massage performed at a swim venue by a licensed professional must be conducted in open/public locations and must never be done with only the athlete and licensed massage therapist in the room. Even if a coach is a licensed massage therapist, the coach shall not perform a rubdown or massage of an athlete under any circumstances.

**305.3** Use of audio or visual recording devices, including a cell phone camera, is not allowed in changing areas, rest rooms or locker rooms.

**305.4** Employees and volunteers of USA Swimming, LSCs and member clubs who interact directly and frequently with athletes as a regular part of their duties and individuals with any ownership interest in a member club must be non-athlete members of USA Swimming and satisfactorily complete criminal background checks as required by USA Swimming. This does not apply to volunteers such as timers, marshals, computer operators, etc. who only have limited contact with athletes during a meet.

#### **305.5** Travel

- .1 Regardless of gender, a coach shall not share a hotel room or other sleeping arrangement with an athlete unless the coach is the parent, guardian, sibling, or spouse of that particular athlete.
- .2 Team managers and chaperones must be members of USA Swimming and have successfully passed a USA Swimming-required criminal background check.
- .3 When only one athlete and one coach travel to a competition, the athlete must have his/her parent's (or legal guardian's) written permission in advance to travel alone with the coach.
- .4 Clubs and LSCs shall develop their own travel policies. USA Swimming will provide a model club travel policy as an example. Club travel policies must be signed and agreed to by all athletes, parents, coaches and other adults traveling with the club.

**305.6** Clubs shall establish their own action plans for implementing USA Swimming's anti-bullying policy. USA Swimming shall provide a model plan as an example which shall serve as the default for any club that fails to establish its own plan. Club anti-bullying plans must be reviewed and agreed to annually by all athletes, parents, coaches and other non-athlete members of the club.

**305.7** Clubs shall establish their own electronic communication/social media policy. USA Swimming shall provide a model policy as an example, which shall serve as the default for any club that fails to establish its own policy. Club electronic communication policies should be

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reviewed and agreed to annually by all athletes, parents, coaches and other non-athlete members of the club.

## **ARTICLE 306**

### **SEXUAL MISCONDUCT REPORTING REQUIREMENTS**

**306.1** It is every member's responsibility to promptly report any incident regarding sexual misconduct by a member as described in Article 304.3.8 to USA Swimming's Athlete Protection Officer. 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.

**306.2** No member shall retaliate against any individual who has made a good faith report under 306.1.

**306.3** Filing a knowingly false allegation of sexual misconduct is prohibited and may violate state criminal law and civil defamation laws. Any person making a knowingly false allegation of sexual misconduct shall be subject to disciplinary action by USA Swimming.

**306.4** Neither civil nor criminal statutes of limitation apply to reports of cases of sexual abuse.