The National Board of Review

The Chair, and one or more Vice Chairs, of the National Board of Review ("NBR") shall be appointed by and shall serve at the pleasure of the President and the Board of Directors.

The NBR Chair, and any NBR Vice Chair to the extent such power and authority has been delegated to him/her by the Chair, shall have the power and authority to do the following:

a. Serve in the role of the administrative and presiding judge of the NBR;

b. Issue the Notice of Hearing in the NBR case and set the hearing date and pleading schedule in accordance with Part Four of the Rules and Regulations (and amend such Notice of Hearing, hearing date and pleading schedule when he/she deems appropriate);

c. Rule on issues of jurisdiction between the NBR and the LSC Boards of Review;

d. Appoint the members (and any substitute members that may be required) of each NBR panel from those members who have attended NBR Certification Workshops at prior annual meetings, the Board of Directors, members of national committees, LSC Officers, Zone Board of Review Chairs, athlete representatives from the Athletes Executive Committee or those nominated by the Athletes Vice President, or such other members including himself or herself, as the NBR Chair may reasonably deem appropriate.

e. Rule on all pre-hearing discovery motions; issue scheduling orders regarding briefs, witness lists (and reasonable limits on the number of witnesses that may be called at the hearing), exchange of hearing exhibits and similar pre-hearing matters, and otherwise make all procedural, evidentiary and technical decisions and rulings with respect to NBR hearings (unless such matters arise during the NBR hearing, in which case the NBR panel chair may make such decisions and rulings as he/she deems appropriate);

f. Provide or cause to be provided to the NBR panel members the Notice of Hearing, petition or petition for review, Respondent’s response, and Petitioner’s reply, together with any other appropriate submissions of the parties, for consideration of the NBR panel;

g. Notify the NBR panel members and parties to the case (along with counsel, if any), or cause them to be notified, of the conference call instructions or
other logistical arrangements regarding the hearing as may be applicable, and hearing agenda for the NBR hearing;

h. Draft, as a scrivener only, unless serving as a member of the NBR panel, the written decision for the NBR panel, or assist the NBR panel chair in drafting the panel's decision;

i. Distribute, or cause to be distributed, the Decision of the NBR panel to the parties (or their counsel), USA Swimming's Chief Executive Officer, the General Chair and the Registration Chair of the LSC(s) involved, and other appropriate parties as the NBR Chair deems necessary for the proper implementation of the NBR's Decision;

j. In addition to the NBR panel having the power to do so, impose sanctions and/or fines against parties to NBR cases and/or their counsel for inappropriate conduct occurring before, during, or after the hearing, including without limitation citations for contempt or the failure or refusal to comply with orders of the NBR; and
The Board of Directors as an Appeals Body

When a panel of the Board of Directors sits as a hearing body on an appeal from the National Board of Review (or in the rare case that the entire Board of Directors sits as such hearing body), the General Counsel of USA Swimming shall be the chair of the appeal panel.

As chair, the General Counsel shall have the power and authority to do the following:

a. Serve in the role of an administrative and presiding judge, without vote;

b. Set the pleading schedule; set the hearing date; issue the Notice of Hearing in the matter and amend such Notice of Hearing, hearing date and pleading schedule when he/she deems appropriate, all in accordance with the Rules;

c. Rule on issues of jurisdiction;

d. Recommend to the Board panel the format for the hearing (based only upon the record on appeal and written briefs, with or without oral argument or a hearing de novo);

e. In the event of a de novo hearing, rule on all pre-hearing discovery motions; issue scheduling orders regarding briefs, witness lists (and reasonable limits on the number of witnesses that may be called at the hearing), exchange of hearing exhibits and similar pre-hearing matters, and otherwise make all procedural, evidentiary and technical decisions and rulings with respect to the de novo hearing;

f. Provide or cause to be provided to the panel members the Notice of Hearing, Petitioner’s petition for review, Respondent’s response, Petitioner’s reply and such other documents as may be appropriate in his/her reasonable judgment for consideration of the panel;

g. Notify the panel members and parties to the case (along with counsel, if any) of all logistical arrangements regarding the hearing as may be applicable;

h. Draft, as a scrivener only, the written decision for the Board, without altering the substance of the panel’s determinations, findings or conclusions;

i. Distribute, or cause to be distributed, the Decision of the panel to the parties (or their counsel), USA Swimming’s Chief Executive Officer, the General Chair and the Registration Chair of the LSC(s) involved, and other appropriate parties as the General Counsel deems necessary for the proper implementation of the Decision; and

j. Recommend to the Board panel the imposition of sanctions and/or fines against parties to the hearing and/or their counsel, for inappropriate conduct occurring before, during, or after the hearing.
Banned for Life Penalty Policy

1. Membership is a privilege, not a right, and members who demonstrate that they are not able to interact with children appropriately sacrifice that privilege.

2. USA Swimming cannot be put in a position where it is required to develop, coordinate, monitor, or evaluate any type of 'rehabilitation' program for members who have demonstrated that they are not able to interact with minors appropriately. NBOR panels that consider putting "rehabilitative" requirements on a member are putting an unreasonable strain on USA Swimming's time and resources, and present potential liability issues for USA Swimming should members who have been sanctioned with any kind of "rehabilitative" requirement by a Board of Review re-offend once they return to membership. As a result, such "rehabilitative" requirements or conditions must be avoided by NBOR panels.

3. The most severe penalty USA Swimming can assign is to permanently expel a member and add their name to the public list of individuals permanently suspended or ineligible. USA Swimming recognizes that sanctions imposed on members or former members cannot exceed restrictions on privileges tied to membership. For instance, USA Swimming cannot prohibit an expelled member from coaching for a non-member organization, giving private lessons, or running an unaffiliated swim camp, etc.

4. An individual cannot be banned for life in a specific membership category. A ban for life must be across all membership categories.

5. A ban for life is a permanent expulsion from membership. Individuals who have been banned for life and have exhausted or waived appeal opportunities do not have any recourse to subsequently request that their name be removed from the list, or request to be re-admitted for membership.

Approved by the USA Swimming Board of Directors 4/27/13.
Time Limits for National Board of Review Hearings

1. For matters in which the Petitioner (i) is seeking a lifetime ban; and (ii) does not allege a violation of Article 304.3.6 (i.e., criminal charges), each party should receive 90 minutes to present its evidence.

2. For matters in which the Petitioner (i) is seeking a suspension for a period of years; and (ii) does not allege a violation of Article 304.3.6 (i.e., criminal charges), each party should receive 60 minutes to present its evidence.

3. For matters in which the Petitioner alleges a violation of Article 304.3.6 (i.e., criminal charges), each party should receive 30 minutes to present its evidence, regardless of whether a lifetime ban or suspension for a period of years is sought.

4. In an uncontested matter (where a Respondent chooses not to participate), the Petitioner should receive 30 minutes to present a condensed version of its case.

5. Additional time may be provided at the discretion of the hearing panel chair.