

Kentucky LMSC Grievance Procedure

WHEREAS the Kentucky 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 Article 402 thereof (hereinafter “Article 4”),

The following grievance procedure is adopted by the Kentucky LMSC:

- 1) Any member of the LMSC, any member Club, or any Kentucky LMSC Team may bring a complaint on any matter for which grievances may be heard under Article 4. 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.
- 2) Upon receipt of a complaint, the Chair shall first make a determination whether the subject matter involves an issue for which a grievance may be brought under Article 4 and involves a person or entity which is part of the Kentucky LMSC. If the Chair determines that the complaint does not meet such criteria, dismissal shall be recommended to the LMSC 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 recommend dismissal, or if a recommendation of dismissal is not accepted by the LMSC, the Grievance Chair shall transmit a copy of the complaint to all other parties involved. Such parties 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 Chair shall advise all parties in writing of their hearing rights under these guidelines, as well as their appeal rights under Article 4. The Grievance Chair, for reasonable grounds, including excusable neglect, may extend any time limit.
- 4) The parties to any controversy shall be the LMSC and any USMS member or entity who makes a complaint or who is the subject of a complaint. In the event there are multiple parties or varying interests, any interested person may ask the Grievance Chair (or the Chair may of its own volition) to realign the parties thereto according to their interest in the matter.
- 5) After all parties have transmitted written statements to the 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 Kentucky LMSC Chair for approval of the LMSC.
- 6) 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 Kentucky 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.
 - a) 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 paragraph 5, or to a hearing under paragraph 6.
 - b) 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 as a recommendation to the LMSC Chair.
 - 7) 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.
 - 8) Upon completion of presentation of evidence, the hearing panel shall, by majority vote, resolve the controversy in the form of a recommendation to the LMSC. The recommended final resolution, including any dissent, shall be reduced to writing and transmitted to the LMSC Chair and to all parties.
 - 9) The LMSC shall have ultimate authority to approve or disapprove any final resolution of any contested issue. If the LMSC does not dismiss the complaint, it may, under Article 403.1, deny membership, censure, place on probation, suspend, fine, or expel any member or any person participating in the affairs of USMS who has engaged in any of the unsporting conduct listed in Article 402.4.
 - 10) Upon rendering of a final decision by the LMSC, the Grievance Chair shall notify all parties in writing of their right to appeal to the National Board of Review under Article 403.3. The LMSC may stay the imposition of any penalty pending appeal to the National Board of Review.