

USA SWIMMING

LSC BOARD OF REVIEW WORKSHOP

January 29-31, 2010

Friday Night

1. **Introductions** – Jim
 - Presenters
 - USA-S Staff
 - Participants (Name, LSC & Position)
2. **Angie Alford v. Manfred O'Neil Mock Hearing**—John, Ann Marie, Jim
 - **Purpose:** This gives our conference an opportunity to get up and running
 - And let each participant see how others might do it;
3. Dinner

Saturday

4. **Background for LSC Boards of Review** – John (30--45 min. – 24 .ppt slides)
 - Amateur Sports Act requirement for hearing
 - Review of LSC Bylaws provisions (powers, possible penalties, etc.)
 - Original jurisdiction of LSC BOR vs. NBR
5. **Pre-Hearing Matters** – Jim (30--45 min. – 18 .ppt slides)
 - The Petition
 - Notice of Hearing
 - Respondent's Answer
 - Rebuttal by Protestor
 - Alternative dispute resolution
 - Pre-hearing investigations and fact-finding
 - Pre-hearing conferences:
 - Frame the factual and legal issues
 - Schedule exchange of witness lists and evidence
 - Rule on/schedule other discovery matters
6. **Confidentiality and Impartiality** – Jim and John (15 min.)
 - Who should know about the Protest and the case before the hearing?
 - Who should know the BOR's Decision?
 - Standards for Recusal and the BOR Code of Conduct per LSC Bylaws
 - The Appearance of Impropriety
7. **Primer on Procedural Due Process** – Jim (30 min. - 11 .ppt slides)
8. **Break-Out Sessions: How do you handle Pre-Hearing Matters?** (30 minutes)
9. **LUNCH (60 minutes)**

10. **Conducting the BOR Hearing** – Jim, with John (30--45 min. – 8 .ppt slides)
 - Prepare and distribute a Hearing Agenda (use as a framework for the conduct of the hearing)
 - Insist that the hearing be kept orderly and civil
 - Avoid people talking over each other (it makes the record impossible to transcribe)
 - Swear in witnesses (see sample oath)
 - How to handle abusive counsel and parties
 - How do you lead the panel members to a consensus without being overbearing?
 - Rules of Evidence not applicable (hearsay accepted, etc.)
 - The burden of proof
 - The standard of proof
 - Define “preponderance of the evidence”
11. **Athlete Participation on the BOR** – Ann Marie (20 minutes)
 - What questions do you have about using athletes;
12. **The Written Decision of the BOR** – Jim (30 min. – 7 .ppt slides)
 - State the correct name of the case and the date of the hearing
 - List the BOR members, parties and all witnesses who are present
 - Include a statement of proper jurisdiction and notice to parties
 - Follow the Pre-Hearing Conference Order, if any
 - Detailed statement of the findings of fact
 - State any conclusions of the law (e.g., “Respondent violated Section 304.3.12 of the Code of Conduct”)
 - Clearly state the penalties being assessed and make sure the punishment fits the crime
 - Remember that the BOR is only deciding whether the Respondent did whatever he/she is being charged with (disregard past history and personalities)
 - When is it appropriate to assess costs to the losing party?
 - Stay Orders
13. **Appeals to the National BOR & BOD** – John & Jim (30 min. – 6 .ppt slides)
 - Need Record on Appeal from LSC BOR (including recording/transcript of hearing, all filings and evidence)
 - Appeals vs. hearings *de novo* (no new evidence or testimony)
 - Standard for review on appeal
 - NBR process for scheduling hearing, panel composition and appointment, etc.
14. **Break-Out Sessions** (45-60 min.) – Topics:
 - Additional topics from the floor?
15. **Questions for the Panel** - Jim, John & Ann Marie(30-45 min.)

16. **Announcements** – Carol

Sunday

17. **Breakfast with Participants and Panelists**

- Time for last minute questions/thoughts/ideas