

March 28, 2020

From: Lake Erie Swimming

To: Lake Erie Swimmers, Coaches, Parents, and Volunteers

Re: Letter Concerning COVID-19 and the LESI Swimming Community

While all of your leadership are concerned with the current situation, it is important to communicate where Lake Erie Swimming is, what we are doing, and what the future will be.

We are currently meeting weekly with others in the Central Zone and USA Swimming regarding shared concerns and clarifying information related to swimming from the National office.

First and foremost, we will follow State and Federal guidelines, including those from USA Swimming. With that being said, several issues have been brought up and are being addressed as follows.

The first is dryland training. The current information is as follows:

### **USA SWIMMING**

*Covered activities include **Virtual dryland training/instruction under the direct supervision of a USA Swimming member coach.** The training must involve live online streaming/real-time instruction or training via the internet. The instructor should be able to communicate visually and verbally with the participants at all times during instruction. **Coverage does not extend to recorded videos/sessions** where there is no live or real-time interaction, and the recordings are accessible by someone other than your clients/members.*

### **Required Protocol:**

- **Members:** Only registered USA Swimming members may participate in the training
- **Supervision ratio:** The Coach/Instructor to athlete ratio shall be no greater than 1:8 (1 coach per 8 athletes)
- **Recommended exercise:** Training shall consist primarily of body weight or light resistance exercises
- **Spatial limitations:** Coach shall ensure the athlete is in an open space free from obstruction prior to training.
- **Content:** All content must be professional in nature.
- **Timing of training:** All video training must take place between the hours of 8:00 am – 8:00 pm and may not take place on a social media platform. (You may use Zoom, Google, Skype, etc.)
- **Parent/3<sup>rd</sup> party Adult involvement:** If there is only one minor athlete and coach conducting the training, the minor's legal guardian must be present and able to observe the training and video.
  - For any group setting, at least one other adult, in addition to the coach, must be present and able to view the video activity during the training session.
  - The parents should sign a release for at home dryland training.

Questions have been made involving House of Delegates and Board of Directors Meeting. We decided in the Lake Erie BOD's meeting to cancel the Awards Banquet and postpone the HOD meeting until we got further direction.

Lake Erie will still be awarding those individuals who would have received honors. We will be distributing awards to coaches when we are all able to get back together. The Awards Program and winners will be posted to the Lake Erie website and emailed out at the end of April when the original Awards Banquet was scheduled.

We checked on Ohio Law and it does allow for virtual meetings. We are discussing how to move forward at our Board meeting on April 6 to determine our course of action. USA Swimming has put out the following in this regard:

**Can the LSC conduct the annual HOD meeting via electronic means, such as via Zoom, Skype, a conference call, etc.?**

The template bylaws do not provide for an HOD meeting to be conducted through electronic means. Section 4.10 of the template bylaws specifies that a quorum of the HOD consists of those members present and voting. Additionally, Section 4.12 of the template bylaws specifies that voting by proxy in any meeting of the HOD shall not be permitted.

Determining whether, in an emergency circumstance, such a meeting may be held by electronic means is highly dependent on state law. Because the state laws applicable to the various LSCs are different, we cannot make any blanket recommendation on this issue. It is recommended that the LSC consult local legal counsel to review your applicable state non-profit laws to determine if there is a basis to hold an electronic meeting.

**Can the LSC BOD postpone the annual HOD meeting?**

Section 5.6 of the template bylaws provides:

*The Board of Directors shall act for XXSI and the House of Delegates during the intervals between meetings of the House of Delegates, except that it shall not remove a Board Member, an Administrative Review Board member, or other person not appointed by the Board of Directors or amend these Bylaws. Any actions taken are subject to the exercise by the House of Delegates of its powers of ratification or prospective modification or rescission. In addition to the powers and duties prescribed in the USA Swimming Rules and Regulations or elsewhere in these Bylaws, the Board of Directors shall have the power and it shall be its duty to: [...] .7: Call regular or special meetings of the Board of Directors or the House of Delegates;*

Two principles are reflected in these sections. First, the BOD acts during the interval between meetings of the HOD, subject to later ratification, modification or rescission by the HOD. Second, it would seem to follow that the power to call meetings also includes the ability to postpone the meeting. Thus, it appears, the template bylaws language allows the LSC BOD to postpone the HOD meeting.

### **Can a BOD meeting be conducted via electronic means?**

Section 5.8 of the template bylaws provides:

*Members of the Board of Directors may participate in meetings of the Board of Directors through conference equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence at a meeting.*

The emphasis on the last sentence in the template makes it clear that a member's presence at an electronic meeting constitutes being present for voting purposes and any action taken at the meeting. The template bylaws also allow the LSC BOD to act by written consent (Section 5.14) and that voting can be by mail/email. (Section 5.15).

### **What happens if new BOD members or committee chairs are not elected at the regularly scheduled HOD meeting?**

The template bylaws consistently provide that each person elected or appointed to a position shall assume office upon election or appointment and shall serve until a successor is chosen. (Sections 4.1.3, 4.1.4, 5.2, 6.2.1, 6.2.2, 6.6.2, 7.2.3 and 13.2.3(B)). Consequently, if an officer or director is to be selected by the HOD at its annual meeting and the meeting is postponed, then that individual continues to serve until their successor is elected.

Your leadership of Lake Erie Swimming is committed to your safety and providing updated information in a prompt and informative manner. LE leadership has sent out via email a survey to clubs (head coach and club registrar). Please check your email and have someone from the club respond to the survey. This survey will help LE LSC assess the needs of our club members during these uncertain times.

Please follow the guideline issued by the State and Federal government. Be Safe

Chuck Kunsman, General Chair

Lake Erie Swimming

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