

# PROTESTS and JURY of APPEAL

## PROTESTS

Protests are part of the rules of swimming. The capacity for a Manager/Coach/Swimmer to lodge a protest against a disqualification, being excluded from a competition or other matters that arise from time to time is part and parcel of a democratic competition.

Referees must never make a decision thinking that the outcome could lead to a protest or worse still **not make a decision** because they consider that it could lead to a protest.

Do not apply “your interpretations” to the rules, apply them as they are written and intended, be consistent and do not attempt to do a favour by “bending the rules”.

If you do this then you should not have any concerns about having your decision being overturned by a Jury of Appeal.

### **Protests are possible;**

- (a) if the rules and regulations for the conduct of the competition are not observed
- (b) if other conditions endanger the competition and (or swimmers), or
- (c) against the decision of the Referee, however, no protests shall be allowed against a decision of fact.

**Decision of fact.** What is a decision of fact? Maybe the best way to define it is to refer to a dictionary and see what it defines as a “fact”.

**Fact** A truth\* verifiable by experience or observation, realities of a situation. A thing that is known to be true.

**Truth\*** A proven or verifiable fact. A true statement of account or belief.

So maybe a decision of fact can be defined as “an observation by an experienced (knowledgeable) person who believes that what he has seen is a true and real situation.

NOTE: Rule GR23.2 (c) states that “... *no protests shall be allowed against decisions of fact*” but this does not mean that a protest cannot be lodged against an infringement that the Referee may consider to be a decision of fact.

It is the Jury of Appeal which has the final decision to determine if an infringement is truly a decision of fact.

### **Protests must be submitted;**

- (a) to the Referee
- (b) in writing
- (c) by the responsible team leader only
- (d) together with a deposit of \$100.00, and
- (e) within thirty (30) minutes following the conclusion of the respective event.

If conditions causing a potential protest are known before the competition, the protest must be lodged prior to the starter's signal being given.

***Suggestion, note on your program the time that any disqualifications are announced.*** The Announcer should also note this on the Rule Infraction Report the time when the announcement is made.

If a coach or swimmer asks a question as to why the disqualification occurred, give your reason/explanation, but do not argue or keep explaining on pool deck. Advise the coach/competitor that that is your decision, and advise them that they have the right to protest if they do not wish to accept your explanation. Advise rules/method of lodging a protest.

Advise the Chief Recorder that a protest may be pending, and to hold up producing the results. It may impact on the Finalists sheets or medal winners.

Carefully consider the reasons why the protest was made.

- ☞ Is there a genuine reason raised in the protest that you did not consider originally?
- ☞ Could you have made a better decision in the first place?
- ☞ Do not be afraid to admit that an error of judgment could have been made originally.
- ☞ Take this opportunity to correct it.

If you do reject the protest you must give the reasons why, and advise the coach/competitor that they have the right to appeal your decision to a Jury of Appeal. Advise the Meet Director that there is a likely appeal to the Jury of Appeal, and give him all documentation.

## **JURY OF APPEAL**

The organisers of the meet appoint the Jury of Appeal. It should consist of three people all of whom have knowledge of the rules. It must be conducted under the terms of "Natural Justice", which is basically that the appeal is conducted as an informal, round table hearing. There must not be any evidence or discussion "in camera", with the accused and accuser (protester and protestee) being in attendance at all times. It is important to note that if the appellant is a minor then he/she must be accompanied by an adult. If a parent or guardian is not available, then a suitable adult such as his/her coach or team manager would be satisfactory.

A chairman is appointed to conduct the hearing. Guidelines for conducting a Jury of Appeal would be.

1. The Chairman of the Jury is advised by the Meet Director of an appeal and is handed all documentation. That is the Infraction Report, the letter of protest from the coach, and if any, the written response made by the Referee.
2. The jury convenes and reads all the documents.
3. They should consider if there are any grounds for an appeal. If not, they should advise the protestor and dismiss the appeal.
4. If they consider that there are grounds, or if they want more information they should call the appellant, his/her team leader and the officials involved into the Jury Room. The jury should check that the appellant is aware of the relevant rules and that there is no misunderstanding regarding the Referee's decision to dismiss the protest.

5. The reporting official should be asked to explain the infringement as he observed it.
6. The appellant, team leader and the Jury are allowed to ask questions if clarification is required.  
**NOTE:** Although the members of the jury, the protester and his/her team leader are allowed to ask questions, cross examination is not allowed.
7. If necessary, the Referee can be asked to explain the reason for the dismissal of the protest in the first place.
8. All parties should be asked to leave the Jury Room. The Jury should consider the matter in accordance with the rules and give their decision in writing, with an explanation for the decision.
9. The Referee and the appellant must be advised in writing of the decision, and the Referee should pass on the information to the Chief Recorder, who would take any necessary actions in regards to the results.