

Manitoba Five Pin Bowling Federation – Appeals Policy

“Organization” – refers to: Manitoba Five Pin Bowling Federation

Definitions

1. The following terms have these meanings in this policy:
 - a) “Days” – days irrespective of weekends and holidays.
 - b) “Member” – refers to all categories or members in the Organization as well as all individuals engaged in activities with or employed by the Organization, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, administrators and employees (including contract personnel).
 - c) “Appellant” – refers to the member appealing a decision.
 - d) “Respondent” – refers to the body whose decision is being appealed.

Purpose

2. The purpose of this appeals policy is to enable disputes with members and participants to be dealt with fairly, expeditiously and affordably, with the Organization, without recourse to external legal procedures.

Scope And Application

3. This policy applies to all individuals. Any member of the Organization who is affected by a decision of the board of directors, of any committee of the board of directors or anybody or individuals who have been delegated authority to make decisions on behalf of the board of directors will have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in paragraph 8 of this policy.
4. This policy **will apply** to decisions relating to:
 - a) Eligibility
 - b) Harassment
 - c) Team Selection
 - d) Discipline
 - e) Entitlements and Obligations
5. This policy **will not apply** to decisions relating to:
 - a) Employment.
 - b) Infractions for doping offences.
 - c) The rules of 5 pin bowling, which may not be appealed.
 - d) Volunteer/coach appointments and the withdrawal or termination of those appointments.
 - e) Budgeting and budget implementation.
 - f) The Organization’s operational structure and committee appointments.
 - g) Decisions or discipline arising within the business, activities or events organized by entities other than the Organization.
 - h) Decisions made under this policy.

Timing of Appeal

6. Individuals who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit, in writing notice of their intention to appeal including grounds for the appeal and a summary of the evidence that supports these grounds to the Organization, with the following:
 - a) Notice of intention to appeal.
 - b) Contact information and status of the appellant.
 - c) Name of the respondent and any affected parties, when known to the appellant.
 - d) Date the appellant was advised of the decision being appealed.
 - e) A copy of the decision being appealed or description of decision if written document is not available.
 - f) Grounds for the appeal.

- g) Detailed reasons for the appeal.
 - h) All evidence that supports these grounds.
 - i) Requested remedy or remedies.
 - j) An administration fee of one hundred dollars (\$100.00).
7. An individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow or not allow an appeal outside of the seven (7) day period will be at the sole discretion of the Organization and may not be appealed.

Grounds For Appeal

8. Not every decision may be appealed. An appeal may only be heard on procedural grounds. Procedural grounds are strictly limited to the respondent:
- a) Making a decision for which it did not have the authority or jurisdiction (as set out in the Organization's governing documents).
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of the Organization.
 - c) Making a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views).
 - d) Failing to consider relevant information or taking into account irrelevant information in making the decision.
 - e) Making a decision that was grossly unreasonable.
9. The appellant must demonstrate on a balance of probabilities, that the respondent has made a procedural error as described in the 'grounds for appeal' section of this policy and that this error had or may reasonable have had a material effect on the decision or decision-maker.

Screening of Appeal

10. Within seven (7) days of receiving the notice of the appeal, the fee and all other information (outlined in the 'timing of appeal' section of this policy), the Organization and the appellant may first determine the appeal to be heard under the Organization's dispute resolution policy.
11. Appeals resolved by mediation under the Organization's dispute resolution policy will cause the administration fee to be refunded to the appellant.
12. Should the appeal not be resolved by using the dispute resolution policy, the Organization will appoint an independent case manager who has the following responsibilities:
- a) Determine if the appeal falls under the scope of this policy.
 - b) Determine if the appeal was submitted in a timely manner.
 - c) Decide whether there are sufficient grounds for the appeal.
13. If the appeal is denied on the basis of insufficient grounds because it was not submitted in a timely manner or because it did not fall under the scope of this policy, the appellant will be notified, in writing of the reasons for this decision. This decision may not be appealed.
14. If the Organization is satisfied there are sufficient grounds for an appeal, within fourteen (14) days of having received the original notice of appeal, the Organization will establish an appeals panel (herein referred to as the "panel"). The panel will be comprised of three (3) individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed and will be free from any other actual or perceived bias or conflict. The Organization may designate one of the panel members to serve as chairperson of the panel. In the event, the Organization does not designate a chairperson, the members of the panel will select from themselves, a chairperson.

Preliminary Conference

15. The panel may determine that the circumstances of the appeal warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both).
 - b) Timelines for exchange of documents.
 - c) Clarification of issues in dispute.
 - d) Clarification of evidence to be presented to the panel.
 - e) Order and procedure of hearing.
 - f) Location of hearing, where the hearing is an oral hearing.
 - g) Identification of witnesses.
 - h) Any other procedural matter that may assist in expediting the appeal proceeding.
16. The panel may delegate to its chairperson the authority to deal with these preliminary matters on behalf of the panel.

Procedure for Appeal Hearing

17. Where the panel has determined that the appeal will be held by way of oral hearing, the panel will govern the hearing by such procedures as it deems appropriate, provided that:
- a) The hearing will be held within twenty-one (21) days of the panel's appointment.
 - b) The parties will be given ten (10) days written notice of the date, time and place of the hearing.
 - c) Copies of any written documents which the parties wish to have the panel consider will be provided to all parties in advance of the hearing.
 - d) The parties may be accompanied by a representative, advisor or legal counsel at their own expense.
 - e) The panel may request that any other individuals participate and give evidence at the hearing.
 - f) A quorum will be all three (3) panel members.
 - g) Decisions will be by majority vote, where the chairperson carries a vote.
 - h) If a decision in the appeal, and by the panel may affect another party to the extent that the other party would have recourse to an appeal in their own right under this policy, that party will become a party to the appeal in question and will be bound by its outcome.
18. In order to keep costs to a reasonable level, the panel may conduct the appeal by means of a telephone conference.

Documentary Appeal

19. Where the panel has determined that the appeal will be held by way of documentary submissions, it will govern the appeal by such procedures as it deems appropriate provided that all parties are given a reasonable opportunity to provide written submissions to the panel, to review written submissions of the other parties and to provide written rebuttal and argument

Appeal Decision

20. Within seven (7) days of concluding the appeal, the panel will issue its written decision with reasons. In making its decision, the panel will have no greater authority than that of the original decision-maker. The panel may decide to:
- a) Reject the appeal and confirm the decision being appealed.
 - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision.
 - c) Uphold the appeal and vary the decision, but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time or lack of neutrality.
 - d) Determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.
21. The panel's written decision, with reasons, will be distributed to all parties and the Organization.

22. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the panel.

Timelines

23. If the circumstances of the appeal are such that adhering to the timelines outlined by this policy will not allow a timely resolution to the appeal, the Organization and/or panel may direct that these timelines be revised.

Location

24. The appeal will take place in the location designated by the Organization, unless the panel decides the appeal is to be held by way of telephone conference, or unless at the specific request of a party, a different location is mandated by the panel as a preliminary matter.

Confidentiality

25. The appeals process is confidential and involves only the parties, the Organization, the panel and any independent advisors to the panel. Once initiated and until a decision is released, none of the parties will disclose confidential information to any person(s) not involved in the proceedings.

Final and Binding

26. The decision of the panel will be final and binding on the parties and on all the Organization's individuals; subject to the right of any party to seek a review of the panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).
27. No action or legal proceeding will be commenced against the Organization or individuals in respect of a dispute, unless the Organization has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Organization's governing documents.

This policy will be reviewed on an annual basis at the Organization's annual general meeting, where it may be amended, deleted or replaced by a resolution and approved at the meeting. The policy will be signed off by the following members of the executive committee of the Organization.

Date: January 23rd, 2019

Grant Szpak (President):



Mike Devenney (Vice President):



Sandi Anderson (Treasurer):


