



## 2021 SOFTBALL MANITOBA AGM Constitution and Bylaws Motion Form



### NOTICE OF MOTION # 4

#### Constitution and Bylaws

**Submitted by:** Board of Directors      **Division Affiliation:** All Divisions

**Date:** September 24, 2021

**REFERENCE:** (Section, article, number, page, etc.)

By-Laws Information Handbook.

Page 12, Section 19, Appeals

**WHEREAS** (Article as currently written.)

#### Section 19 - APPEALS

19.01 Any member of the association who is affected by a decision of the Board of Directors, of any committee of the Board of Directors, or of any body or individual who has been Delegated authority to make decisions on behalf of the Board of Directors, shall have the right to appeal that decision, provided there are sufficient grounds for the appeals as set out in 19.02.

**19.02 An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include Softball Manitoba:**

- a. Making a decision for which it did not have authority or jurisdiction as set out in the by-laws, general operating rules or division operating rules;
- b. Failing to follow procedures as laid out in the by-laws, general operating rules or division operating rules;
- c. Making a decision which was influenced by bias;
- d. Failing to consider relevant information or taking into account irrelevant information in making the decision;
- e. Exercising its discretion for an improper purpose; And/or
- f. Making a decision that was unreasonable, having regard to the terms of reference or criteria upon which the decision was to be made.
- g. Failing to make its decision in accordance with criteria and/or principles established and approved by Softball Manitoba for the purpose of the decision in question.

19.03 When dealing with minor age players, the coach/parent/legal guardian has the right to appeal on behalf of the minor player.

19.04 The following procedures shall be followed when filing an appeal:

- a. Any formal appeal must be made in writing to the Association office and shall be received within 7 days from the date on which they received notice of the decision.
- b. The written appeal shall contain all pertinent details;
- c. The appeal must be accompanied by a five hundred dollar (\$500.00) fee or Certified Cheque.

19.05 Within 7 days of receiving the notice of appeal, the president or their designate shall decide whether or not the appeal is based on one or more of the categories of possible errors by Softball Manitoba as set out in Section 19.02. The president or their designate shall not determine if the error has been made, only if the appeal is based on such an allegation of error by Softball Manitoba.

Please return by **October 26, 2021** to Softball Manitoba via email to [softball@softball.mb.ca](mailto:softball@softball.mb.ca).



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- 19.06 If the appeal is denied on the basis of insufficient grounds, the appellant shall be notified of this decision in writing, giving reasons. This decision is at the discretion of the President and two neutral divisional Directors (Board Members not affiliated with the division regarding the plea) and may not be appealed.
- 19.07 Any party wishing to initiate an appeal beyond the seven (7) day period must provide a written request stating reasons for an exemption to this requirement. The decision to allow, or not allow an appeal outside the seven (7) day period shall be at the sole discretion of the President or their designate.**
- 19.08 Once a formal appeal has been received, the Appeal Committee shall meet at the call of the Committee Chairman.
- 19.09 The structure of the Appeal Committee shall be as follows:
- A Chairman who is a member of the Advisory Board.
  - Three (3) other Division Representatives, excluding the Division involved in the appeal who were not in attendance when the offence was dealt with.
  - One member of the Appeal Committee must be a concerned citizen who is not a member of Softball Manitoba.
- 19.10 Any member or the coach/parent/legal guardian of a minor player who is appealing will have the right to have witnesses on an individual basis appear before the Appeal Committee to give witness on his behalf.
- 19.11 When the Appeal Committee has been called together, the following shall occur:
- All parties concerned will be notified as to when and where the Appeal Committee will meet to discuss the appeal;
  - All parties concerned with the appeal should be available at the specified time to provide information or answer questions;
  - A written report shall be given to the President by the Appeal Committee Chairman immediately following the appeal meeting;
  - Appeal or protest fees will be returned to the member appealing or protesting if the appeal or protest is upheld. If rejected, Softball Manitoba will retain the fee.
- 19.12 The decision of the Appeal Committee is final.

### **BE IT RESOLVED THAT** (Motion. State whether revision, addition, deletion)

Remove Section 19 from the Bylaws in its entirety to the Softball Manitoba Policy.

### **RATIONALE**

Dealing with Suspensions should not be a By-Law and falls under Policy. Policies are reviewed and administered by the Board of Directors on behalf of the Membership.

### **FINANCIAL IMPLICATIONS**

**FINAL IMPLICATIONS:**     **Carried**     **Amended**     **Withdrawn**     **Defeated**

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