Purpose:

To provide a clear process for members of Special Olympics Manitoba to appeal decisions made by the organization and its representatives.

Application and Scheme:

Any member of Special Olympics Manitoba who is affected by a decision of the Board, of any committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board shall have the right to appeal that decision.

This policy shall not apply to the matters relating to Rules of the Games, which are governed under their own individual sport appeal policy.

Members who wish to appeal a decision shall have twenty-one (21) days from the date on which they received notice of the decision, to submit written notice of their intention to appeal (Notice of Appeal), along with detailed reasons for the appeal, to the Appeal Committee of Special Olympics Manitoba.

- An appeal shall only be heard if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, Special Olympics Manitoba:

  A. making a decision for which it did not have authority or jurisdiction as set out in governing documents;

  B. failing to follow procedures as laid out in bylaws or approved policies of the organization;

  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, which was unreasonable.

- Within ten (10) days of receiving notice of an appeal the President (or a designate, appointed by the President) shall appoint 3 persons to constitute a Tribunal, in accordance with the following:

A. The Tribunal shall be compromised of members in good standing of the organization who shall have no involvement with the decision being appealed and shall be free from actual or perceived bias or conflict;

B. in appointing the Tribunal, consideration shall be given to the geographic location of the appellant, the respondent and the Tribunal members in order to minimize the inconvenience and expense to all parties; and

C. the appellant shall be given an opportunity to recommend one of the Tribunal members, provided the member satisfies criteria (a) and (c) above.

- With in seven (7) days of its appointment the Tribunal shall review the Notice of Appeal and reasons for the appeal and shall decide whether or not there are sufficient grounds for an appeal. This decision is discretionary and may not be appealed.

- If the Tribunal is satisfied that there are not sufficient grounds for an appeal, it shall notify the appellant of this decision in writing within twenty-one (21) days, stating reasons. If the Tribunal is satisfied that there are sufficient grounds for an appeal, it shall notify the President who shall appoint a Tribunal to conduct a Hearing and the appellant shall be notified of the intention to convene at Hearing and the appellant shall be notified as to whether the hearing will be an Oral Hearing or a Documentary Hearing.

- The President shall appoint a Tribunal of three(3), five(5), or seven (7) members in accordance with the criteria set out in paragraph five (5) above. In addition to the criteria listed in paragraph five (5) above, a three (3) person panel shall have at least two (2) members appointed from the Board of Directors and a seven (7) person panel shall have at least three (3) members appointed from the Board of Directors.

- The Tribunal, at a Hearing, shall govern the Hearing by such procedures as it deems appropriate in the circumstances, provided that:

D. the Hearing shall be held within thirty-one (31) days of the Tribunal's appointment;

E. the appellant and respondent shall be given ten (10) days written notice of the day, time and place of the Hearing;

F. Tribunal members shall select from themselves a Chairperson;

G. A quorum shall be all Tribunal members appointed for the Hearing;

H. decisions shall be by majority vote;

I. Copies of any written documents which either the appellant or respondent wish to have the Tribunal consider shall be provided to all parties at least five (5) days in advance of the Hearing;

J. Both the appellant and the respondent may be accompanied by a representative or advisor, which may include legal counsel;

K. The Tribunal may request that any other individual participate and give evidence at the Hearing;

L. Upon confirming the Hearing, the appellant shall be notified of costs that may be incurred by the appellant if the appeal is unsuccessful; and

M. The Tribunal may hold a Hearing in camera if the Tribunals discretion it deems seems necessary.

- In order to keep costs to a reasonable level the Tribunal may, at its discretion, conduct the Hearing by means of conference call or videoconference.

- Within ten (10) days of concluding the Hearing, the Tribunal shall issue its written decision, with reasons. The Tribunal may decide:

  A. to allow or dismiss the decision being appealed;

  B. to make any new or substitute decision;

  C. to refer the matter back to the respondent for a new decision; and/or

  D. to determine how costs of the appeal shall be allocated.

- A copy of the decision shall be provided to the appellant; the respondent; the Board; the President and CEO of Special Olympics Manitoba; the President or Special Olympics Manitoba; the Board of Directors of Special Olympics Manitoba.

- Provided that the appeal may not be practically concluded within the timelines of this appeal process, the time limitations may be altered by the President of Special Olympics Manitoba (or designate), but only with the consent of both the appellant and the respondent.

Once it has been determined that an appeal shall be held, pursuant to paragraph seven (7) herein, the President (or designate) will determine whether the Hearing will proceed

as an Oral Hearing in accordance with paragraph nine (9) herein, or whether the Hearing will proceed as a Documentary Hearing. The appellant shall have the right to request an Oral Hearing in favor of a Documentary Hearing. If the matter proceeds as a Documentary Hearing:

A. the President (or delegate) shall appoint a three (3) member Tribunal in accordance with the criteria set out in paragraph five (5) herein, with at least one (1) member appointed by the Board of Directors;

B. the Tribunal shall request both appellant and respondent to provide any written evidence to be relied upon as well as a written submission, within ten (10) days of both parties being notified of the decision to have Documentary Hearing;

C. the Tribunal reserves the right to require further documentary evidence, or clarification on any matter raised in the appeal;

D. within twenty-one (21) days of receipt of both the appellant's and respondent's written evidence and submission the Tribunal shall make its decision; and/or

E. within six (6) days of making its decision, the Tribunal shall issue its written decision and provide it to those persons referred to in paragraph ten (10) herein.

- Any decision of a Tribunal Hearing shall be final and binding, and not open to any further appeal.

Procedures at an Oral Hearing commenced pursuant to the Appeal Procedure

- The parties to the Appeal shall file any documents they wish to have considered at the Hearing 5 days prior to the date of the Hearing. The parties will also provide to the Tribunal a list of witnesses they expect to testify at the Hearing 5 days prior to the date of the Hearing.

- The parties will provide to the opposite party copies of all documents provided to the Tribunal 5 days prior to the date of the Hearing. The parties will also provide to the party opposite a list of witnesses they expect to testify at the Hearing 5 days prior to the date of the Hearing.

- At the commencement of the Hearing, each party may give an opening statement outlining the matters at issue in the appeal. The respondent may postpone their opening statement until the appellant has presented all evidence and witnesses.

- Once the opening statements are made, the appellant shall present all evidence and witnesses in support of its appeal and the respondent will have the opportunity to challenge such evidence by cross examination of witnesses or presentation of contrary evidence to the appellants witnesses. Following a cross examination, the appellant will have the opportunity to clarify any evidence given by their witness during cross examination or as a result of questions from the Tribunal.

- The respondent will present all evidence and witnesses in support of its position on the appeal and the appellant will have the opportunity to challenge such evidence by cross examination or presentation of contrary evidence. Following a cross examination, the respondent will have the opportunity to clarify any evidence given by a witness during cross examination or as a result of questions from the Tribunal.

- The Tribunal may question witnesses and may request clarification of any evidence presented once a cross examination is complete.

- Once all evidence has been presented, the appellant will have the opportunity to make a closing argument. Once the appellant has made their closing argument, the respondent will have an opportunity to make their closing argument. In the event, the respondent raises an issue not dealt with by the appellant in their closing argument, the appellant will be given an opportunity to respond to that issue(s).

- The Tribunal is entitled to question either the appellant or the respondent on the issues raised in the appeal generally or as a result of the evidence.

- The Tribunal shall then deliberate the matters at issue in private and shall render a decision in writing in accordance with the Appeal procedure.