



SOUTH WEST METRO BASKETBALL ASSOCIATION INC

Grievance Policy

November 2024

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1. Purpose of Policy

South West Metro Basketball Association Inc (SWMBI) recognises that sometimes disputes arise within an association and has adopted this policy to assist in managing disputes. Specifically, this policy sets out a grievance procedure for dealing with a dispute between:

- a) A member and another member of SWMBI; and/or
- b) A member and the SWMBI Board; and/or
- c) A member and SWMBI.

2 Commencement of this Policy

This Policy commenced on 15 November 2024. It replaced all earlier Grievance Policies (if any).

3 Grievance Procedure

- a) The grievance procedure cannot be used by a person whose membership has been terminated if the rules provide for an appeal process against termination.
- b) A member (the aggrieved party) initiates the grievance procedure in relation to the dispute by giving a notice in writing of the dispute:
 - I. to the other party; and
 - II. if the other party is not the SWMBI Board, to the SWMBI Board.
- c) If two (2) or more members initiate a grievance procedure in relation to the same subject matter, the SWMBI Board may deal with the disputes in a single process and the members must choose one (1) of the members (also the aggrieved party) to represent the members in the grievance procedure.
- d) Subject to rule 4 of this policy, the parties to the dispute must, in good faith, attempt to resolve the dispute.
- e) If the parties to the dispute cannot resolve the dispute within fourteen (14) days after the aggrieved party initiates the grievance procedure, the aggrieved party may, within a further twenty-one (21) days, ask the SWMBI secretary to refer the dispute to mediation.
- f) Subject to rule 4 of this policy, if the aggrieved party asks the association's secretary to refer the dispute to mediation under subrule 3 e), the SWMBI Board must refer the dispute within fourteen (14) days after the request.

4 Grievance Procedure Not Continued in Particular Circumstances

- a) This rule applies if:
 - (i) a member initiates a grievance procedure in relation to a dispute and SWMBI or the SWMBI Board is the other party to the dispute; or
 - (ii) the aggrieved party asks the association's secretary to refer the dispute to mediation under rule 3 e) of this policy.

- b) The SWMBI Board does not have to act under rule 3 d) or 3 f) if:
- (i) the aggrieved party has, within twenty-one (21) days before initiating the grievance procedure, behaved in a way that would give the SWMBI Board grounds for taking disciplinary action under the rules against the aggrieved party in relation to the matter the subject of the grievance procedure; or
 - (ii) before the grievance procedure was initiated, a process had started to take action under the rules against the aggrieved party or terminate the aggrieved party's membership, as provided for under the rules, and the dispute relates to that process or to a matter relevant to that process; or
 - (iii) the dispute relates to an obligation under the Liquor Act 1992 or any other State law to prevent the entry of the aggrieved party to, or to remove the aggrieved party from, premises used by the SWMBI, or to refuse to serve liquor to the aggrieved party at the premises; or
 - (iv) the dispute could reasonably be considered frivolous, vexatious, misconceived, or lacking in substance or the dispute relates to a matter that has already been subject of the grievance procedure.

5 Appointed Mediator

- a) If a dispute under rule 3 e) of this policy is referred to mediation:
- (i) the parties to the dispute must choose a mediator to conduct the mediation; or
 - (ii) if the parties are unable to agree on the appointment of a mediator within fourteen (14) days after the dispute is referred to mediation, the mediator must be:
 - a. for a dispute between a member and another member person appointed by the SWMBI Board; or
 - b. for a dispute between a member and the SWMBI or the SWMBI Board - an accredited mediator or a mediator appointed by the director of the dispute resolution centre.
- b) An accredited mediator may refuse to be the mediator, or the director of a dispute resolution centre may refuse to appoint a mediator, to mediate the dispute.
- c) If subrule 5 b) of this policy applies, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

6 Conduct of Mediation

- a) If a mediator is appointed under rule 3 of this policy, the mediator must start the mediation as soon as possible after the appointment and try to finish the mediation within twenty-eight (28) days after the appointment.
- b) Subrule 6 a) does not apply if the mediator is the director of a dispute resolution centre.

- c) The mediator:
 - I. must give each party to the dispute an opportunity to be heard on the matter the subject of the dispute; and
 - II. must comply with natural justice; and
 - III. must not act as an adjudicator or arbitrator; and
 - IV. during the mediation, may see the parties, with or without their representatives, together or separately.
- d) The parties to the dispute must act reasonably and genuinely in the mediation and help the mediator to start and finish the mediation within the time required under subrule 6 (a) of this policy.
- e) The costs of the mediation, if any, are to be shared equally between the parties unless otherwise agreed.
- f) If the mediator cannot resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

7 Representation for Grievance Procedure

- a) A party to a dispute may appoint any person to act on behalf of the party in the grievance procedure.
- b) If a party appoints a person under subrule 7 (a) of this policy to be the party's representative, the party must give written notice of the appointment to each of the following entities:
 - I. the other party to the dispute;
 - II. the SWMBI Board; and
 - III. if a mediator has been appointed before the party appoints the representative—the mediator.
- c) A representative who acts for a party at a mediation must:
 - I. have sufficient knowledge of the matter the subject of the dispute to be able to represent the party effectively; and
 - II. be authorised to negotiate an agreement for the party.

8 Electronic Communication for Grievance Procedure

Any meeting or mediation session required under the grievance procedure may be conducted by electronic means if the parties to the dispute and, for a mediation, the mediator agrees.