ANTI-DOPING POLICY

AUSTRALIAN SPORTS COMMISSION

Effective 1 January 2009
Date approved by ASADA  18 December 2008
Date adopted by the ASC Board  13 November 2008
Date Anti-Doping Policy effective  1 January 2009

This Anti-Doping Policy replaces the previous ASC Anti-Doping Policy that came into effect on 1 August 2004.
Historical Document
Introduction

The Australian Sports Commission (ASC) takes pride that, as a leader in the fight against doping in sport, Australia’s anti-doping programs have helped set the standard for the world sporting community. The ASC supports the Australian Sports Anti-Doping Authority (ASADA) in the fight against doping in sport and requires ASC-recognised National Sporting Organisations and National Sporting Organisations (NSOs) for People with a Disability to adopt the mandatory provisions of the World Anti-Doping Code (Code) and rules that conform with the National Anti-Doping (NAD) scheme.

This Policy operates in conjunction with, where applicable, the ASC Code of Conduct, the Australian Institute of Sport (AIS) Athlete Scholarship Agreement, the National Talent Identification and Development (NTID) Athlete Agreement, the Australian Government Sport Training Grant (AGSTG) Agreement and any other applicable agreement. As such, this Policy is an important part of a comprehensive set of behavioural standards, responsibilities and practices. The ASC Code of Conduct and the athlete agreements listed above each contain the obligation to comply with applicable ASC policies and procedures, including this Policy.

An individual who is investigated and/or sanctioned under this Policy may also be investigated and/or sanctioned under the ASC Code of Conduct and/or an athlete agreement listed above (if applicable).

Any suspected anti-doping rule violation under this Policy must be reported in accordance with Article 25 of this Policy.

As at the date of this Policy, copies of World Anti-Doping Agency (WADA) documents can be found on the WADA website www.wada-ama.org.

As at the date of this Policy, copies of ASC documents, including the ASC Code of Conduct, can be found on the ASC website ausport.gov.au and/or by request from the ASC’s Human Resources Section.

As at the date of this Policy, copies of ASADA documents can be found on the ASADA website asada.gov.au.

Definitions of terms used in this Policy can be found in Appendix 1.
Article 1  Rationale

1.1 The ASC condemns doping in sport as fundamentally contrary to the spirit of sport. Anti-doping programs, including documents such as this Policy, seek to preserve what is intrinsically valuable about sport. The essence of sport at all levels in Australia upholds the principles of fairness, respect, responsibility and safety.

1.2 The purpose of this Policy and the anti-doping programs that it supports are:

- to protect Athletes’ fundamental right to participate in doping-free sport and thus promote health, fairness and equality for Athletes worldwide
- to ensure harmonised, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.

Article 2  Powers of the ASC and ASADA

The ASC acknowledges the legislative authority of ASADA to act under the ASADA Act 2006 and the NAD scheme.

Article 3  Scope

3.1 Persons to whom this Policy applies

This Policy applies to:

3.1.1 Athletes who are AIS Scholarship Holders, NTID Athletes and AGSTG Recipients

3.1.2 Athlete Support Personnel who are recipients of ASC financial assistance

3.1.3 any other Athletes, Athlete Support Personnel or other Persons who receive financial or other assistance from the ASC

3.1.4 any other Athletes, Athlete Support Personnel or other Persons who are provided with access to ASC (including AIS) facilities or services

3.1.5 employees, Board Members and contractors of the ASC

3.1.6 any other Person who has agreed to be bound by this Policy.

3.2 Other anti-doping policies

Where a Person is bound by an applicable NSO and/or IF Anti-Doping Policy in addition to this Policy, the Person shall be bound by, and have obligations in respect of all applicable policies simultaneously, provided that under no circumstances will any other policy reduce a Person’s obligations under this Policy.
Article 4  Roles and responsibilities

4.1  Athletes

Athletes must:

4.1.1 be knowledgeable of and comply with all anti-doping policies and rules applicable to them. This includes, but may not be limited to, this Policy, their NSO’s Anti-Doping Policy and their IF’s Anti-Doping Policy

4.1.2 be aware of whether they are in their IF’s and/or ASADA’s Registered Testing Pools and comply with the requirements of any such membership

4.1.3 read and understand the Prohibited List as it relates to them

4.1.4 be available for Sample collection and provide accurate and up-to-date whereabouts information for this purpose when identified for inclusion in a Registered Testing Pool

4.1.5 take full responsibility, in the context of anti-doping, for what they ingest, Use and Possess

4.1.6 inform medical personnel of their obligations not to Use or Possess Prohibited Substances and Prohibited Methods, and ensure that any medical treatment received does not violate anti-doping policies and rules applicable to them

4.1.7 attend anti-doping education as directed by the ASC and/or as appropriate. Failure to attend an anti-doping education session shall be no excuse for an alleged anti-doping rule violation, nor shall it mitigate culpability of the Athlete in determining sanction

4.1.8 in accordance with Article 25, promptly report information about suspected anti-doping rule violations to the ASC Executive Director, in a discreet and confidential manner

4.1.9 assist, cooperate and liaise with the ASC, their NSO, ASADA and other Anti-Doping Organisations in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation, in a discreet and confidential manner

4.1.10 be available for Sample collection and provide accurate and up-to-date whereabouts information on a regular basis, even if not a regular Member of a NSO, if required by the conditions of eligibility established by their NSO, AOC, APC, IF, ACGA, Major Event Organisers or as applicable

4.1.11 accept that ignorance of this Policy, the Code or the Prohibited List is not an excuse for an anti-doping rule violation, and shall not mitigate culpability in sanction.
4.2 **Athlete Support Personnel**

Athlete Support Personnel must:

4.2.1 be knowledgeable of and comply with all anti-doping policies and rules applicable to them or the Athletes whom they support. This includes, but may not be limited to, this Policy, their NSO’s Anti-Doping Policy and their IF’s Anti-Doping Policy

4.2.2 support and assist **Anti-Doping Organisations**, including ASADA, to conduct **Doping Control**

4.2.3 use their influence on Athletes’ values and behaviour to foster anti-doping attitudes

4.2.4 in accordance with Article 25, promptly report information about suspected anti-doping rule violations to the **ASC Executive Director**, in a discreet and confidential manner

4.2.5 assist, cooperate and liaise with the ASC, their NSO, ASADA and other **Anti-Doping Organisations** in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation, in a discreet and confidential manner.

4.3 **Employees, Board Members and contractors of the ASC**

Employees, Board Members and contractors of the ASC must:

4.3.1 be knowledgeable of and comply with all anti-doping policies and rules applicable to them. This includes, but may not be limited to, this Policy

4.3.2 where applicable, support and assist **Anti-Doping Organisations**, including ASADA, to stop doping in sport

4.3.3 where applicable, use their influence on Athletes’ values and behaviour to foster anti-doping attitudes

4.3.4 in accordance with Article 25, promptly report information about suspected anti-doping rule violations to the **ASC Executive Director**, in a discreet and confidential manner

4.3.5 assist, cooperate and liaise with the ASC, ASADA and other **Anti-Doping Organisations** in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation.

4.4 **ASC**

The ASC will:

4.4.1 abide by, implement and enforce this Policy to the satisfaction of ASADA

4.4.2 obtain ASADA’s prior written approval for any amendments to this Policy

4.4.3 develop and implement, in consultation with ASADA, comprehensive programs and education initiatives for **AIS Scholarship Holders** and **NTID Athletes** about pure performance in sport
4.4.4 support the initiatives of and cooperate with ASADA, as reasonably requested, to assist the achievement of pure performance in sport

4.4.5 assist Anti-Doping Organisations, including ASADA, to conduct Doping Control by providing information relating to Registered Testing Pools as reasonably requested, subject to privacy legislation

4.4.6 where required, act in accordance with this Policy upon the receipt of a reported anti-doping rule violation and notification by ASADA of an entry onto the ASADA Register in respect of an Athlete, Athlete Support Personnel, or other Person bound by this Policy, in consultation with ASADA

4.4.7 assist, cooperate, and liaise with ASADA, applicable NSOs and IFs, and other Anti-Doping Organisations as reasonably requested in relation to the conduct of any investigations or hearing into an alleged anti-doping rule violation under this Policy

4.4.8 recognise and enforce any sanction applied by the CAS and/or other Tribunals in respect of an anti-doping rule violation under this Policy, or recommendation of ASADA where a hearing has been waived

4.4.9 withhold some or all funding, during any period of his or her Ineligibility, to any Athlete or Athlete Support Personnel who has committed an anti-doping rule violation.

4.5 ASADA

ASADA will carry out its functions and powers in accordance with the ASADA Act 2006 and the NAD scheme, as published from time to time, and/or as referred to ASADA by the ASC. This includes but is not limited to:

4.5.1 coordinating results management processes, issuing infraction notices, convening hearings, presenting allegations of anti-doping rule violations at hearings and all matters incidental thereto unless otherwise agreed between the parties and outlined in this Policy

4.5.2 providing and promoting the adoption and implementation of anti-doping policies and rules that conform with the Code, the ASADA Act 2006 and the NAD scheme

4.5.3 coordinating the administration of national Registered Testing Pools and all Athlete whereabouts requirements in consultation with NSOs

4.5.4 requesting Athletes to provide Samples and Testing, or arranging Testing of Samples

4.5.5 investigating possible anti-doping rule violations

4.5.6 making findings in relation to such investigations

4.5.7 notifying the Athlete, Athlete Support Personnel, the ASC, their NSO and other organisations required to be notified under the Code, the ASADA Act 2006 and the NAD scheme of its findings and its recommendations as to the consequences of such findings
4.5.8 notifying the results of hearings and all relevant incidental matters to relevant bodies including the ASC, the applicable NSO and the applicable IF, as agreed between the parties and outlined in this Policy. Any notification will be subject to the ASADA Act 2006, NAD scheme and privacy legislation

4.5.9 monitoring NSOs’ compliance with their Anti-Doping Policies and notifying the NSO and the ASC about the extent of this compliance

4.5.10 publishing reports about the extent of NSOs’ compliance with their Anti-Doping Policies

4.5.11 developing and implementing, and encouraging the sporting community to develop, implement and support, comprehensive programs and education initiatives about pure performance in sport.

4.6 Breaches of this Policy

Where a Person bound by this Policy breaches his or her obligations under this Policy including his or her responsibilities under this Article 4, regardless of whether such breach amounts to an anti-doping rule violation such breach may also constitute a breach of the ASC Code of Conduct, AIS Athlete Scholarship Agreement, NTID Athlete Agreement, AGSTG Agreement or other relevant agreement between the ASC and that Person, and sanctions under the ASC Code of Conduct or other relevant agreement may apply. Article 4.6 and Article 26 each apply without limitation to the other.

Article 5 Definition of doping

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in Article 2.1 through Article 2.8 of the Code and Article 6.1 through Article 6.8 of this Policy.
Article 6   Anti-doping rule violations

Athletes or other Persons shall be responsible for knowing what constitutes an anti-doping rule violation, and the substances and methods that have been included on the Prohibited List.

The following constitute anti-doping rule violations:

6.1 Presence of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample

6.1.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Athletes are responsible for any Prohibited Substance or its Metabolites or Markers found to be present in their Samples. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation under Article 6.1.

6.1.2 Sufficient proof of an anti-doping rule violation under Article 6.1 is established by either of the following: presence of a Prohibited Substance or its Metabolites or Markers in the Athlete’s A Sample where the Athlete waives analysis of the B Sample and the B Sample is not analysed; or, where the Athlete’s B Sample is analysed and the analysis of the Athlete’s B Sample confirms the presence of the Prohibited Substance or its Metabolites or Markers found in the Athlete’s A Sample.

1 The purpose of Article 6 is to specify the circumstances and conduct that constitute anti-doping rule violations. Hearings in doping cases will proceed based on the assertion that one or more of these specific rules has been violated.

2 For purposes of anti-doping rule violations involving the presence of a Prohibited Substance (or its Metabolites or Markers), the Code (and therefore this Policy) adopts the rule of strict liability that was found in the Olympic Movement Anti-Doping Code (OMADC) and the vast majority of pre-Code anti-doping rules. Under the strict liability principle, an Athlete is responsible, and an anti-doping rule violation occurs whenever a Prohibited Substance is found in an Athlete’s Sample. The violation occurs whether the Athlete intentionally or unintentionally Used a Prohibited Substance or was negligent or otherwise at fault. If the positive Sample came from an In-Competition test, then the results of that Competition are automatically invalidated in accordance with Article 18. However, the Athlete then has the possibility to reduce sanctions if the Athlete can demonstrate that he or she was not at fault or significant fault in accordance with Article 19.6, or in certain circumstances did not intend to enhance his or her sport performance in accordance with Article 19.5.

The strict liability rule for the finding of a Prohibited Substance in an Athlete’s Sample, with a possibility that sanctions may be modified based on specified criteria, provides a reasonable balance between effective anti-doping enforcement for the benefit of all “clean” Athletes and fairness in the exceptional circumstance where a Prohibited Substance entered an Athlete’s system through No Fault or Negligence, or No Significant Fault or Negligence on the Athlete’s part. It is important to emphasise that while the determination of whether the anti-doping rule violation has occurred is based on strict liability, the imposition of a fixed period of Ineligibility is not automatic. The strict liability principle set forth in the Code has been consistently upheld in the decisions of CAS.

3 The Anti-Doping Organisation with results management responsibility may in its discretion choose to have the B Sample analysed even if the Athlete does not request the analysis of the B Sample.
6.1.3 Excepting those substances for which a quantitative reporting threshold is specifically identified in the Prohibited List, the presence of any quantity of a Prohibited Substance or its Metabolites or Markers in an Athlete’s Sample shall constitute an anti-doping rule violation.

6.1.4 As an exception to the general rule of Article 6.1, the Prohibited List or International Standards may establish special criteria for the evaluation of Prohibited Substances that can also be produced endogenously.

6.2 Use or Attempted Use by an Athlete of a Prohibited Substance or a Prohibited Method

6.2.1 It is each Athlete’s personal duty to ensure that no Prohibited Substance enters his or her body. Accordingly, it is not necessary that intent, fault, negligence or knowing Use on the Athlete’s part be demonstrated in order to establish an anti-doping rule violation for Use of a Prohibited Substance or a Prohibited Method.

6.2.2 The success or failure of the Use or Attempted Use of a Prohibited Substance or Prohibited Method is not material. It is sufficient that the Prohibited Substance or Prohibited Method was Used or Attempted to be Used for an anti-doping rule violation to be committed.

6.3 Refusing or failing without compelling justification to submit to Sample collection after notification as authorised in applicable anti-doping rules, or otherwise evading Sample collection

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4 It has always been the case that Use or Attempted Use of a Prohibited Substance or Prohibited Method may be established by any reliable means. As noted in the footnote 13 in Article 7.2, unlike the proof required to establish an anti-doping rule violation under Article 6.1, Use or Attempted Use may also be established by other reliable means, such as admissions by the Athlete, witness statements, documentary evidence, conclusions drawn from longitudinal profiling, or other analytical information that does not otherwise satisfy all the requirements to establish “Presence” of a Prohibited Substance under Article 6.1. For example, Use may be established based upon reliable analytical data from the analysis of an A Sample (without confirmation from an analysis of a B Sample) or from the analysis of a B Sample, alone where the Anti-Doping Organisation provides a satisfactory explanation for the lack of confirmation in the other Sample.

5 Demonstrating the “Attempted Use” of a Prohibited Substance requires proof of intent on the Athlete’s part. The fact that intent may be required to prove this particular anti-doping rule violation does not undermine the strict liability principle established for violations of Article 6.1 and violations of Article 6.2 in respect of Use of a Prohibited Substance or Prohibited Method.

An Athlete’s Use of a Prohibited Substance constitutes an anti-doping rule violation unless such substance is not prohibited Out-of-Competition and the Athlete’s Use takes place Out-of-Competition. (However, the presence of a Prohibited Substance or its Metabolites or Markers in a Sample collected In-Competition is a violation of Article 6.1 regardless of when that substance might have been administered.)

6 Failure or refusal to submit to Sample collection after notification was prohibited in almost all pre-Code anti-doping rules. This Article expands the typical pre-Code rule to include “otherwise evading Sample collection” as prohibited conduct. Thus, for example, it would be an anti-doping rule violation if it were established that an Athlete was hiding from a Doping Control official to evade notification or Testing. A violation of “refusing or failing to submit to Sample collection” may be based on either intentional or negligent conduct of the Athlete, while “evading” Sample collection contemplates intentional conduct by the Athlete.
6.4 Violation of applicable requirements regarding Athlete availability for Out-of-Competition Testing, including failure to file required whereabouts information and Missed Tests which are declared based on rules which comply with the International Standard for Testing. Any combination of three Missed Tests and/or Filing Failures within an eighteen-month period as determined by Anti-Doping Organisations with jurisdiction over the Athlete shall constitute an anti-doping rule violation.

6.5 Tampering or Attempted Tampering with any part of Doping Control

6.6 Possession of Prohibited Substances and Prohibited Methods

6.6.1 Possession by an Athlete In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition unless the Athlete establishes that the Possession is pursuant to a therapeutic use exemption granted in accordance with Article 9 or other acceptable justification.

6.6.2 Possession by an Athlete Support Personnel In-Competition of any Prohibited Method or any Prohibited Substance, or Possession by an Athlete Support Personnel Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Personnel establishes that the Possession is pursuant to a therapeutic use exemption granted to an Athlete in accordance with Article 9 or other acceptable justification.

6.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method

6.8 Administration or Attempted administration to any Athlete In-Competition of any Prohibited Method or Prohibited Substance, or administration or Attempted administration to any Athlete Out-of-Competition of any Prohibited Method or any Prohibited Substance that is prohibited Out-of-Competition, or assisting, encouraging, aiding, abetting, covering up or any other type of complicity involving an anti-doping rule violation or any Attempted anti-doping rule violation.

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7 Separate Whereabouts Filing Failures and Missed Tests declared under the rules of the Athlete’s International Federation, ASADA or any other Anti-Doping Organisation with authority to declare Whereabouts Filing Failures and Missed Tests in accordance with the International Standard for Testing shall be combined in applying this Article. In appropriate circumstances, Missed Tests or Filing Failures may also constitute an anti-doping rule violation under Article 6.3 or 6.5.

8 This Article prohibits conduct that subverts the Doping Control process but which would not otherwise be included in the definition of Prohibited Methods; for example, altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis or providing fraudulent information to an Anti-Doping Organisation.

9 Acceptable justification would not include, for example, buying or Possessing a Prohibited Substance for purposes of giving it to a friend or relative, except under justifiable medical circumstances where that Person had a physician’s prescription, such as buying insulin for a diabetic child.

10 Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.

11 The Code does not make it an anti-doping rule violation for an Athlete or other Person to work or associate with Athlete Support Personnel who are serving a period of Ineligibility. However, a Sporting Organisation may adopt its own rules that prohibit such conduct.
Article 7  Proof of doping

7.1  Burdens and standards of proof

ASADA or the ASC shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether ASADA or the ASC has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation that is made. This standard of proof in all cases is greater than a mere balance of probability but less than proof beyond a reasonable doubt. Where this Policy places the burden of proof upon the Athlete or other Person alleged to have committed an anti-doping rule violation to rebut a presumption or establish specified facts or circumstances, the standard of proof shall be by a balance of probability, except as provided in Articles 19.5 and 19.7 where the Athlete must satisfy a higher burden of proof.\[12\]

7.2  Methods of establishing facts and presumptions

Facts related to anti-doping rule violations may be established by any reliable means, including admissions.\[13\] The following rules of proof shall be applicable in doping cases:

7.2.1  WADA-accredited laboratories are presumed to have conducted Sample analysis and custodial procedures in accordance with the International Standard for Laboratories. The Athlete or other Person may rebut this presumption by establishing that a departure from the International Standard for Laboratories occurred, which could reasonably have caused the Adverse Analytical Finding.

If the Athlete or other Person rebuts the preceding presumption by showing that a departure from the International Standard for Laboratories occurred, which could reasonably have caused the Adverse Analytical Finding, then ASADA or the ASC shall have the burden to establish that such departure did not cause the Adverse Analytical Finding.\[14\]

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12 This standard of proof required to be met by the Anti-Doping Organisation is comparable to the standard that is applied in most countries to cases involving professional misconduct. It has also been widely applied by courts and hearing panels in doping cases. See, for example, the CAS decision in N, J, Y, W v FINA, CAS 98/208, 22 December 1998.

13 For example, an Anti-Doping Organisation may establish an anti-doping rule violation under Article 6.2 based on the Athlete’s admissions, the credible testimony of third Persons, reliable documentary evidence, reliable analytical data from either an A or B Sample as provided in the footnotes to Article 6.2, or conclusions drawn from the profile of a series of the Athlete’s blood or urine Samples.

14 The burden is on the Athlete or other Person to establish, by a balance of probability, a departure from the International Standard for laboratories that could reasonably have caused the Adverse Analytical Finding. If the Athlete or other Person does so, the burden shifts to the Anti-Doping Organisation to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.
7.2.2 Departures from any other International Standard or other anti-doping rule or policy, which did not cause an Adverse Analytical Finding or other anti-doping rule violation, shall not invalidate such results. If the Athlete or other Person establishes that a departure from another International Standard or other anti-doping rule or policy that could reasonably have caused the Adverse Analytical Finding or other anti-doping rule violation occurred, then ASADA or the ASC shall have the burden to establish that such departure did not cause the Adverse Analytical Finding or the factual basis for the anti-doping rule violation.

7.2.3 The facts established by a decision of a court or professional disciplinary tribunal of competent jurisdiction, which is not the subject of a pending appeal, shall be irrebuttable evidence against the Athlete or other Person to whom the decision pertained of those facts unless the Athlete or other Person establishes that the decision violated principles of natural justice.

7.2.4 The hearing panel in a hearing on an anti-doping rule violation may draw an inference adverse to the Athlete or other Person who is asserted to have committed an anti-doping rule violation based on the Athlete's or other Person's refusal, after a request made in a reasonable time in advance of the hearing, to appear at the hearing (either in person or telephonically as directed by the hearing panel) and to answer questions from the hearing panel or the Anti-Doping Organisation asserting the anti-doping rule violation.  

Article 8  The Prohibited List

8.1 Incorporation of the Prohibited List

This Policy incorporates the Prohibited List which is published and revised by WADA as described in Article 4.1 of the Code and changes from time to time. If WADA has expanded the Prohibited List for any particular sport/s, this Policy incorporates the Prohibited List as so expanded to that sport/s.

8.2 Publication and revision of the Prohibited List

Unless provided otherwise in the Prohibited List or a revision, the Prohibited List and revisions shall go into effect under this Policy three (3) months after publication of the Prohibited List by WADA or as amended by WADA from time to time without requiring any further action by ASADA or the ASC.

15 Drawing an adverse inference under these circumstances has been recognised in numerous CAS decisions.

16 The WADA Prohibited List is accessible through the WADA website www.wada-ama.org
8.3 Prohibited Substances and Prohibited Methods Identified on the Prohibited List

8.3.1 Prohibited Substances and Prohibited Methods

The Prohibited List shall identify those Prohibited Substances and Prohibited Methods that are prohibited as doping at all times (both In-Competition and Out-of-Competition) because of their potential to enhance performance in future Competitions or their masking potential and those substances and methods which are prohibited In-Competition only. Prohibited Substances and Prohibited Methods may be included in the Prohibited List by general category (such as anabolic agents) or by specific reference to a particular substance or method.\(^{17}\)

8.3.2 Specified Substances

For purposes of the application of Article 19 all Prohibited Substances shall be “Specified Substances” except substances in the classes of anabolic agents and hormones, and those stimulants and hormone antagonists and modulators so identified on the Prohibited List. Prohibited Methods shall not be Specified Substances.\(^{18}\)

8.3.3 New classes of Prohibited Substances

In the event WADA expands the Prohibited List by adding a new class of Prohibited Substances in accordance with Article 4.1 of the Code, WADA’s Executive Committee shall determine whether any or all Prohibited Substances within the new class of Prohibited Substances shall be considered Specified Substances under Article 8.3.2.

\(^{17}\) There will be one Prohibited List. The substances that are prohibited at all times would include masking agents and those substances which, when Used in training, may have long-term performance enhancing effects, such as anabolics. All substances and methods on the Prohibited List are prohibited In-Competition. Out-of-Competition Use, under Article 6.2, of a substance that is only prohibited In-Competition is not an anti-doping rule violation unless an Adverse Analytical Finding for the substance or its Metabolites is reported for a Sample collected In-Competition in accordance with Article 6.1.

There will be only one document called the “Prohibited List”. WADA may add additional substances or methods to the Prohibited List for particular sports (such as the inclusion of beta-blockers for shooting) but this will also be reflected on the single Prohibited List. A particular sport is not permitted to seek exemption from the basic list of Prohibited Substances (for example, eliminating anabolics from the Prohibited List for “mind sports”). The premise of this decision is that there are certain basic doping agents that anyone who chooses to call himself or herself an Athlete should not take.

\(^{18}\) In drafting the Code there was considerable debate among stakeholders over the appropriate balance between inflexible sanctions, which promote harmonisation in the application of the rules, and more flexible sanctions, which better take into consideration the circumstances of each individual case. This balance continued to be discussed in various CAS decisions interpreting the Code. After three years experience with the Code, the strong consensus of stakeholders is that while the occurrence of an anti-doping rule violation under Articles 6.1 and 6.2 should still be based on the principle of strict liability, the Code sanctions should be made more flexible where the Athlete or other Person can clearly demonstrate that he or she did not intend to enhance sport performance. The change to Article 8.3 and related changes to Article 19 provide this additional flexibility for violations involving many Prohibited Substances. The rules set forth in Article 19.6 would remain the only basis for eliminating or reducing a sanction involving anabolic steroids and hormones, as well as the stimulants and the hormone antagonists and modulators so identified on the Prohibited List, or Prohibited Methods.
8.4 Criteria for including Prohibited Substances and Prohibited Methods on the Prohibited List

As provided in Article 4.3.3 of the Code, WADA’s determination of the Prohibited Substances and Prohibited Methods that will be included on the Prohibited List and the classification of substances into categories on the Prohibited List is final and shall not be subject to challenge by an Athlete or other Person based on an argument that the substance or method was not a masking agent or did not have the potential to enhance performance, represent a health risk or violate the spirit of sport.19

Article 9 Therapeutic use

9.1 International Standard for TUE

Any Athlete with a documented medical condition requiring the Use of a Prohibited Substance or a Prohibited Method must request a Therapeutic Use Exemption (TUE) in accordance with the Code, the International Standard for TUE, this Policy and other policies applicable to them.20

9.2 International-Level Athletes

International-Level Athletes or any other Athlete who is entered in an International Event with documented medical conditions requiring the Use of a Prohibited Substance or a Prohibited Method must request a TUE from their IF (regardless of whether the Athlete previously has received a TUE from ASDMAC or another TUE Committee). Athletes who have been identified as included in their IF’s Registered Testing Pool may only obtain TUEs in accordance with the rules of the IF.21

9.3 National-Level Athletes

Athletes who are not in their IF’s Registered Testing Pool but are in ASADA’s Registered Testing Pool or Domestic Testing Pool with documented medical conditions requiring the Use of a Prohibited Substance or a Prohibited Method must request a TUE from ASDMAC.

19 The question of whether a substance meets the criteria in Article 8.4 in a particular case cannot be raised as a defence to an anti-doping rule violation. For example, it cannot be argued that the Prohibited Substance detected would not have been performance enhancing in that particular sport. Rather, doping occurs when a substance on the Prohibited List is found in an Athlete’s Sample. Similarly, it cannot be argued that a substance listed in the class of anabolic agents does not belong in that class.

20 International-Level Athletes or Athletes entering an International Event should seek guidance on the process for seeking a TUE from the WADA website www.wada-ama.org or their IF’s website. National-level athletes should seek guidance from the ASDMAC website asdmac.org.au.

21 Unless provided otherwise by the rules of an IF or an agreement with an IF, ASDMAC does not have the authority under the Code to grant TUEs to International-Level Athletes or for International Events.
9.4 **Other Athletes**

Athletes who are not in their IF’s or ASADA’s Registered Testing Pool, Domestic Testing Pool or have not otherwise been notified by ASADA, in accordance with the NAD scheme, that they require a TUE prior to Use of a Prohibited Substance or a Prohibited Method, may submit an application to ASDMAC for approval of a TUE in accordance with the procedures of ASDMAC.

9.5 **TUE applications**

9.5.1 Athletes should submit an application for a TUE no less than twenty-one (21) days before they require the approval (for example, prior to a National Event), except for retroactive TUEs under Article 9.5.2.

9.5.2 An application for a TUE will not be considered for retroactive approval except in cases where:

a  emergency treatment or treatment of an acute medical condition was necessary

b  due to exceptional circumstances, there was insufficient time or opportunity for an Athlete to submit, or a TUE Committee to consider, an application prior to Doping Control, or

c  ASDMAC procedures, in accordance with the Code and the International Standard for TUE, provide for retroactive approval.

9.5.3 An Athlete may not apply to more than one body for a TUE at the same time. Applications must be in accordance with the International Standard for TUE and the procedures of the Athlete’s IF or ASDMAC as appropriate.

9.6 **Reporting of TUEs**

The granting of any TUE by ASDMAC for an Athlete in ASADA’s Registered Testing Pool shall be promptly reported to WADA.

9.7 **Review of TUEs**

9.7.1 WADA, on its own initiative, may review at any time the granting of a TUE to any International-Level Athlete in an IF’s Registered Testing Pool or national-level Athlete who is included in ASADA’s Registered Testing Pool. Further, upon the request of any such Athlete who has been denied a TUE, WADA may review such denial. If WADA determines that such granting or denial of a TUE did not comply with the International Standard for TUE, WADA may reverse the decision.

9.7.2 An Athlete who is denied a TUE by ASDMAC must seek review by WADA of the decision before any appeal may be commenced under Article 21.4.

9.7.3 If, contrary to the requirements of the Code, an IF does not have a process in place where Athletes may request TUEs, an International-Level Athlete may request WADA to review the application as if it had been denied.
Article 10  Athlete whereabouts requirements

10.1  Requirement for whereabouts information

10.1.1  All Athletes identified for inclusion in a Registered Testing Pool must provide accurate whereabouts information to the relevant Anti-Doping Organisation/s in accordance with the Code and International Standards, the NAD scheme, their NSO's Anti-Doping Policy, their IF's Anti-Doping Policy and this Policy, and to keep this information updated at all times.

10.1.2  ASADA shall coordinate the identification of Athletes in its Registered Testing Pool and the collecting of current location information and shall submit these to WADA. Information may also be shared with Athletes’ IFs. This information shall be maintained by those bodies in strict confidence at all times and shall be used exclusively for purposes of planning, coordinating or conducting Testing or establishing anti-doping rule violations under Article 6.4.

10.2  International-Level Athletes and national-level Athletes

10.2.1  Any Athlete included in their IF’s Registered Testing Pool must provide whereabouts information in accordance with the applicable requirements as set out in the International Standard for Testing and determined by their IF.

10.2.2  Any Athlete included in ASADA’s Registered Testing Pool must provide whereabouts information in accordance with the applicable requirements as set out in the International Standard for Testing, the NAD scheme and as determined by ASADA.

10.2.3  Where an Athlete has been designated for inclusion in both their IF’s and ASADA’s Registered Testing Pools, the Athlete may only be required to provide whereabouts information to ASADA. ASADA will then be responsible for notifying the Athlete’s IF that it is receiving the Athlete’s whereabouts information and for sharing the relevant information with the IF and other relevant Anti-Doping Organisations in accordance with the Code and the International Standard for Testing. Athletes will be advised by ASADA or their NSO if their IF is accepting athlete whereabouts information collected from ASADA and that therefore they need only submit whereabouts information to ASADA, and must consent to the sharing of this information.

10.2.4  An Athlete who has been designated for inclusion in ASADA’s Registered Testing Pool shall continue to be subject to the whereabouts requirements of ASADA unless and until:

a  he or she retires from Competition in accordance with Article 11, or

b  he or she has been given written notice by ASADA that he or she is no longer designated for inclusion in ASADA’s Registered Testing Pool.
10.3 **Whereabouts Failures**

10.3.1 In accordance with Article 6.4, an *Athlete* in a *Registered Testing Pool* will be deemed to have committed an anti-doping rule violation if he or she commits a total of three (3) *Whereabouts Failures* (which may be three (3) *Filing Failures*, or three Missed Tests, or any combination of *Filing Failures* and Missed Tests adding up to three (3) in total) in any eighteen (18) month period. This 18 month period is a rolling period that starts to run on each date that an *Athlete* commits a *Whereabouts Failure*.

10.3.2 More than one (1) *Anti-Doping Organisation* may have jurisdiction to Test an *Athlete* who has been designated for inclusion in a *Registered Testing Pool*. For the purposes of Article 10.3.1 above and in accordance with Article 23, ASADA shall recognise and respect *Filing Failures* and Missed Tests declared by other Anti-Doping Organisations pursuant to the *International Standard for Testing*, and those *Filing Failures* and Missed Tests shall be combined for the purposes of Article 6.4. As a consequence, any *Athlete* who commits any three (3) *Whereabouts Failures* in any eighteen (18) month period shall be deemed to have committed an anti-doping rule violation under Article 6.4, irrespective of which Anti-Doping Organisation/s has/have declared the *Whereabouts Failures* in question.

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**Article 11 Retirement and return to Competition**

11.1 **International-Level Athletes**

11.1.1 An *Athlete* who has been identified by their *IF* for inclusion in its *Registered Testing Pool* shall be subject to their *IF’s* retirement and return to *Competition* requirements, to the exclusion of Article 11.2.

11.1.2 Athletes wishing to retire should contact their *NSO* to determine if they are in their *IF’s Registered Testing Pool* and therefore are required to follow the *IF’s* procedures.

11.2 **National-Level Athletes**

*Athletes* in ASADA’s *Registered Testing Pool* or *Domestic Testing Pool* shall be subject to the following requirements:

11.2.1 An *Athlete* who wants to retire from *Competition* must do so by notifying ASADA by fully completing and forwarding to ASADA the ASADA “*Retirement Notification Form*” (“*retirement notification*”).22 *Retirement notifications* that are not fully completed will not be accepted and will be returned to the *Athlete* for completion. An *Athlete’s* retirement date will be the date ASADA receives the fully completed retirement notification.

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22 The ASADA Retirement Notification Form is accessible through the ASADA website asada.gov.au
11.2.2 Upon receipt of a retirement notification in accordance with Article 11.2.1, ASADA will, as soon as reasonably practicable, provide the Athlete and their NSO with a written confirmation of the Athlete’s retirement.

11.2.3 Retirement does not:

a. excuse the Athlete from giving a Sample requested on or before their retirement date, or a Sample required as part of an investigation commenced prior to their retirement date.

b. excuse the Athlete from assisting, cooperating and liaising with ASADA and other Anti-Doping Organisations in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation.

c. prevent the analysis of a Sample given by the Athlete on or before their retirement date.

d. affect the results of Testing under (a) or (b) above.

e. exempt the Athlete from this Policy in relation to an anti-doping rule violation committed on or before their retirement date, or

f. affect ASADA’s power to conduct results management in accordance with Article 15.10.

11.2.4 An Athlete who has retired in accordance with Article 11.2.1 and who wishes to return to Competition, must do so by notifying ASADA by fully completing and forwarding the ASADA “Request for Reinstatement Form” (“reinstatement request”). Reinstatement requests that are not fully completed will not be accepted and will be returned to the Athlete for completion. The Athlete’s reinstatement request date will be the date ASADA receives the fully completed reinstatement request. The applicable NSO will make the decision whether to reinstate an Athlete, in consultation with ASADA.

11.2.5 Upon receipt of notification in accordance with Article 11.2.4, ASADA will, as soon as reasonably practicable:

a. provide the Athlete with a written confirmation of the outcome of the Athlete’s reinstatement request.

b. if the reinstatement request is approved by the Athlete’s NSO, provide the NSO with a written confirmation of ASADA’s acceptance of the Athlete’s reinstatement.

11.2.6 If reinstatement is granted, then this Policy will apply to the Athlete from the date of their reinstatement request. An Athlete who is reinstated pursuant to Article 11.2.4 may not compete in Competitions and Events conducted by or under the auspices of the ASC, the Athlete’s NSO or any other NSO for a period of six (6) months from the date of the reinstatement request.

23 The ASADA Request for Reinstatement Form is accessible through the ASADA website asada.gov.au
11.2.7 An Athlete must be available for unannounced Out-of-Competition Testing in accordance with this Policy from the date of their reinstatement request. Being available for Out-of-Competition Testing means that an Athlete has complied with any request by an Anti-Doping Organisation to provide a Sample, and any Athlete who is designated for inclusion in their IF’s or ASADA’s Registered Testing Pool has complied with whereabouts requirements set out in Article 10.

11.2.8 Decisions of an applicable NSO in relation to the reinstatement request of an Athlete may be appealed in accordance with that NSO’s appeal procedures.

Article 12 Testing

12.1 Submit to Testing

All Athletes must comply with any request for Testing by an Anti-Doping Organisation with Testing jurisdiction, including ASADA.

12.2 Standards for Testing

Anti-Doping Organisations with Testing jurisdiction shall conduct such Testing in conformity with the International Standard for Testing in force at the time of Testing.

12.3 Selection of Athletes for Testing

12.3.1 Where required by the ASC, their IF, their NSO or a Major Event Organisation, Athletes shall be selected for Testing In-Competition in accordance with the applicable rules of the IF, NSO or the Major Event Organisation.

12.3.2 Notwithstanding any other regulations, ASADA may test any Athlete, at any time, anywhere, in accordance with the Code, the ASADA Act 2006 and the NAD scheme.

Article 13 Analysis of Samples

Samples collected under this Policy shall be analysed in accordance with the following principles:

13.1 Use of WADA-approved analysis

For the purposes of Article 6.1, Samples will be analysed only in WADA-accredited laboratories or as otherwise approved by WADA.

13.2 Purpose of collection and analysis of Samples

Samples shall be analysed to detect Prohibited Substances and Prohibited Methods identified on the Prohibited List and other substances as may be directed by WADA pursuant to Article 4.5 of the Code, or to assist an Anti-Doping Organisation in profiling relevant parameters in an Athlete’s urine, blood or other matrix, including DNA or genomic profiling, for anti-doping purposes.
13.3 **Research on Samples**

No *Sample* may be used for any purpose other than as described in Article 13.2 without the Athlete’s written consent. *Samples* used for purposes other than Article 13.2 shall have any means of identification removed, such that they cannot be traced back to a particular Athlete.

13.4 **Standards for Sample analysis and reporting**

Laboratories shall analyse *Samples* and report results in conformity with the *International Standard* for Laboratories.

13.5 **Retesting Samples**

A *Sample* may be reanalysed for the purpose of Article 13.2 at any time exclusively at the direction of the *Anti-Doping Organisation* that initiated the *Sample* collection or WADA. The circumstances and conditions for retesting *Samples* shall conform to the requirements of the *International Standard* for Laboratories.

### Article 14 Investigations

14.1 Where an investigation is required to determine whether an anti-doping rule violation may have occurred under this Policy, ASADA will conduct the investigation. Such investigation will be conducted by ASADA in accordance with the *Code*, relevant *International Standards*, the ASADA Act 2006, the *NAD scheme* and the Australian Government Investigations Standard, as in force from time to time.

14.2 Where ASADA believes it is appropriate to do so, ASADA may advise the ASC and/or the applicable NSO of an ASADA investigation. ASADA may also consult affected and interested parties about their participation in any investigation. Any disclosure by ASADA of information regarding an investigation will be in accordance with the *Code*, the ASADA Act 2006, the *NAD scheme*, the Privacy Act 1988 (Cwlth) and the Australian Government Investigations Standard, as in force from time to time.

14.3 The ASC may, following consultation with ASADA, carry out its own investigation into:

14.3.1 whether an anti-doping rule violation may have occurred under this Policy, if ASADA has elected not to conduct such investigation, and/or

14.3.2 related matters, provided the ASC does so in coordination with any investigation being undertaken by ASADA and seeks ASADA’s input into such investigation.

14.4 All *Persons* bound by this Policy must assist, cooperate, and liaise with ASADA and the ASC in relation to any investigation into an alleged anti-doping rule violation and in doing so must act in a discreet and confidential manner.
Article 15  Results management

15.1 ASADA and the ASC will recognise the results of laboratory analysis of Samples conducted by WADA-accredited laboratories in accordance with the International Standard for Testing.

15.2 The ASC will recognise any determination or finding by ASADA or another Anti-Doping Organisation that an anti-doping rule violation may have occurred.

15.3 ASADA will manage the results of all potential anti-doping rule violations under this Policy in accordance with Article 7 of the Code, the ASADA Act 2006 and the NAD scheme.

15.4 ASADA will conduct any follow-up investigation and be responsible for notification of an alleged anti-doping rule violation and all matters incidental thereto, in accordance with the Code, the ASADA Act 2006 and the NAD scheme.

15.5 ASADA will issue an infraction notice. ASADA will advise the ASC and any other relevant parties that ASADA is issuing an infraction notice prior to issuing the infraction notice.

15.6 The infraction notice will:

15.6.1 notify the Person of the anti-doping rule/s that appear/s to have been violated and the basis for the violation

15.6.2 enclose a copy of this Policy or the website address where this Policy can be located

15.6.3 state that the Person has a right to a hearing in relation to the alleged anti-doping rule violation

15.6.4 state that if the Person does not respond within fourteen (14) days of receipt of the infraction notice, or another period of time as agreed by ASADA, they will be deemed to have waived their right to a hearing and the ASC, in consultation with ASADA and other relevant parties, where applicable, may apply a sanction in accordance with Article 19

15.6.5 be copied to the ASC and other relevant parties in accordance with the Code and the NAD scheme.

15.7 The ASC will be:

15.7.1 notified by ASADA about a Person who is alleged to have or has committed an anti-doping rule violation under this Policy or the Anti-Doping Policy of a relevant NSO in accordance with the Code, ASADA Act 2006 and the NAD scheme and insofar as ASADA is aware that the alleged is subject to the jurisdiction of the ASC

24 See the NAD scheme for details of when a notice from ASADA is deemed to have been received.
15.7.2 advised by the relevant body of the outcome of the results management process of all anti-doping rule violations

15.7.3 consulted by ASADA about ASC participation in any investigations and hearings, including appeals, involving a Person bound by this Policy. The ASC will have the right to attend hearings.

15.8 ASADA may refer the matter to hearing in accordance with Article 17 unless the Person acknowledges in writing that they have admitted the anti-doping rule violation, and waives the right to a hearing in relation to whether the Person committed an anti-doping rule violation and what sanction will apply.

15.9 If the Person does not respond within fourteen (14) days or another period of time as agreed by ASADA, a hearing can be held in absentia or the ASC, in consultation with ASADA and other relevant parties, where applicable, may apply a sanction in accordance with Article 19.

15.10 If an Athlete or other Person retires while a results management process is underway, ASADA retains jurisdiction to complete its results management process. If an Athlete or other Person retires before any results management process has begun, so long as ASADA would have had results management jurisdiction over the Athlete or other Person at the time the Athlete or other Person committed an anti-doping rule violation, ASADA will have jurisdiction to conduct results management.  

Article 16  Provisional Suspensions

16.1 Mandatory Provisional Suspension after an A Sample Adverse Analytical Finding

Where an A Sample Adverse Analytical Finding is received for a Prohibited Substance other than a Specified Substance, the ASC, in consultation with ASADA, will promptly impose a Provisional Suspension on the Athlete.

16.2 Optional Provisional Suspension based on an A Sample Adverse Analytical Finding for Specified Substances or other potential anti-doping rule violations

Where an A Sample Adverse Analytical Finding is received for a Specified Substance or the ASC receives initial notification or information about another potential anti-doping rule violation, the ASC, in consultation with ASADA, may impose a Provisional Suspension on the Athlete, Athlete Support Personnel or other Person at any time prior to the final hearing as described in Article 17.

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25 Conduct by an Athlete or other Person before the Athlete or other Person was subject to the jurisdiction of any Anti-Doping Organisation would not constitute an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a Sporting Organisation.
16.3 **Provisional or expedited hearing**

16.3.1 *A Provisional Suspension* may not be imposed unless the Athlete or other Person is given either:

a. an opportunity for a **Provisional Hearing**, either before imposition of the **Provisional Suspension** or on a timely basis after imposition of the **Provisional Suspension**, or

b. an opportunity for an expedited hearing in accordance with Article 17 on a timely basis after imposition of a **Provisional Suspension**.

16.3.2 ASADA will convene any **Provisional Hearing** and will present the case at any **Provisional Hearing** unless otherwise agreed between the parties.

16.4 **B Sample analysis not confirming A Sample analysis**

If a **Provisional Suspension** is imposed based on an A Sample **Adverse Analytical Finding** and a subsequent B Sample analysis does not confirm the A Sample analysis, then the Athlete will not be subject to any further **Provisional Suspension** on account of a violation of Article 6.1. In circumstances where the Athlete (or the Athlete’s team if applicable) has been removed from a **Competition** based on a violation of Article 6.1 and the subsequent B Sample analysis does not confirm the A Sample analysis, if, without otherwise affecting the **Competition**, it is still possible for the Athlete or team to be reinserted, the Athlete or team may continue to take part in the **Competition**.

16.5 **Public Disclosure of Provisional Suspension**

As a general rule, the **Provisional Suspension** of a Person under this Policy will not be **Publicly Disclosed**. However, subject to Article 22.1.2, ASADA or the ASC may, if they consider it appropriate, **Publicly Disclose** the identity of the Person, the **Provisional Suspension** and the reasons for the **Provisional Suspension** so long as such disclosure will not be unfairly prejudicial to the interests of the suspended Person. ASADA and the suspended Person must be consulted prior to any such disclosure by the ASC and any such disclosure requires the prior consent of ASADA, which will not be unreasonably withheld.

16.6 **Suspension of Financial Assistance**

Where an A Sample **Adverse Analytical Finding** is received for a **Prohibited Substance** or the ASC receives initial notification or information about another potential anti-doping rule violation, the ASC may, following consultation with ASADA, suspend financial or other assistance to the Person at any time prior to the final hearing as described in Article 17, regardless of whether a **Provisional Suspension** has also been imposed. This Article 16.6 applies without limitation to Article 16.1 and Article 16.2. Article 16.3 does not apply to suspension of financial or other assistance under this Article 16.6, however **Public Disclosure** of such suspension under this Article 16.6 will be restricted on terms corresponding with Article 16.5.
Article 17  Right to a fair hearing

17.1  Fair hearings

Any Person who is asserted to have committed an anti-doping rule violation under this Policy is entitled to be provided with a hearing process. Such hearing process shall address whether an anti-doping rule violation was committed, and, if so, the appropriate Consequences. All hearings conducted pursuant to this Article 17 will respect the following principles:

17.1.1 a timely hearing
17.1.2 a fair and impartial hearing body
17.1.3 the right to representation at the Person’s own expense
17.1.4 the right to be informed in a fair and timely manner of the asserted anti-doping rule violation
17.1.5 the right to respond to the asserted anti-doping rule violation and resulting Consequences
17.1.6 the right of each party to present evidence, including the right to call and question witnesses (subject to the hearing body’s discretion to accept testimony by telephone or written submission)
17.1.7 the Person’s right to an interpreter at the hearing, with the hearing panel to determine the identity, and responsibility for the cost, of the interpreter
17.1.8 a timely, written, reasoned decision, specifically including an explanation of the reason/s for any period of Ineligibility.

Subject to these principles, the hearing will be conducted in the manner that the hearing body determines is appropriate, with as little formality and technicality, and as quickly, as proper consideration of the issue permits.

17.2  Event hearings

Hearings held in connection with Events may be conducted by an expedited process as permitted by the rules of the relevant Anti-Doping Organisation and the hearing panel.

17.3  Expedited hearings

Hearings pursuant to this Article shall be completed as soon as reasonably practicable. Matters may be marked for expedited or “urgent” hearing where required. Factors to be considered when determining whether or not a matter should be marked for expedited hearing include but are not limited to the proximity of upcoming Events or Competitions, including training and qualifying for such Events or Competitions, the nature of the anti-doping rule violation, and whether or not a Provisional Suspension has been imposed.
17.4 **Waiver of hearing**

The right to a hearing may be waived either expressly or by the Athlete’s or other Person’s failure to challenge ASADA’s assertion that an anti-doping rule violation has occurred within the specific time period provided in Article 15. Where no hearing occurs, ASADA shall submit to the organisations described in Article 17.6 a reasoned decision explaining the action taken.

17.5 **ASADA to conduct hearings**

17.5.1 Following consultation with the ASC, ASADA will, unless otherwise agreed with the ASC, convene the hearing and present the case at the hearing in accordance with the procedures of ASADA and CAS or the Tribunal.

17.5.2 ASADA will wait fourteen (14) days, or a shorter period agreed between ASADA and the Person, after sending an infraction notice and then may appoint to conduct the hearing:

a. the CAS, or

b. another Tribunal approved by ASADA.

17.5.3 Each party shall bear in equal proportions any upfront fee of the CAS or Tribunal, excluding the initial CAS application fee that shall be borne by the party applying. Should it be found that no anti-doping rule violation has been committed, ASADA shall reimburse the Athlete or other Person their portion of the upfront fee. Each party shall otherwise bear their own costs.

17.6 **Right to attend hearings**

The ASC, the relevant NSO and IF, WADA, AOC, APC, ACGA where applicable, and the relevant SIS/SAS shall have the right to attend hearings as an observer or interested/affected party. It shall be the duty of ASADA to inform those relevant parties of such right to attend as an observer or interested/affected party as applicable. If those parties fail to respond to such notification within fourteen (14) days of notification, they shall be taken to have waived their right to so participate.

17.7 **CAS/Tribunal determination**

17.7.1 CAS or the Tribunal will determine:

a. if the Person has committed a violation of this Policy

b. if so, what Consequences will apply, including the start date for any period of Ineligibility

c. any other issues, such as but not limited to reimbursement of costs and funding.

17.7.2 Consequences will be in accordance with Article 19.

17.7.3 CAS or the Tribunal shall have discretion, where fairness requires, to establish an instalment plan for repayment of any funding or costs awarded pursuant to Article 17.7.1(c). For the avoidance of doubt, the schedule of payments pursuant to such plan may extend beyond any period of Ineligibility imposed upon the Person.
17.8 **Written decision**

CAS or the *Tribunal* will give the parties a written statement of:

17.8.1 the findings of the hearing and brief reasons for the findings

17.8.2 what *Consequences*, if any, will apply

17.8.3 any other issues, such as but not limited to reimbursement of costs and funding.

17.9 **Public Disclosure of hearing outcomes**

ASADA shall report the outcome of all anti-doping rule violations in accordance with the *Code*, the ASADA Act 2006, the NAD scheme and this Policy. ASADA will consult with the ASC and, if applicable, any other relevant parties prior to reporting the outcomes of an anti-doping rule violation or making any other public comment. The ASC and ASADA may issue a joint report.

17.10 **Appeals and review**

17.10.1 Decisions by CAS or the *Tribunal* at first instance may be appealed as provided in Article 21.

17.10.2 Decisions by CAS or the *Tribunal* at first instance shall not be subject to further administrative review at the national level except as provided in Article 21 or required by applicable law.

17.11 **Use of information arising during hearings**

If, during a hearing, a party to the hearing process implicates a third party in a potential anti-doping rule violation under this Policy and/or under another Anti-Doping Policy of a *Signatory* or *Sporting Organisation*, then ASADA may use any such information that arises as a result of the CAS or *Tribunal* process without having to first seek the permission of CAS, the *Tribunal* or the parties. This Article 17.11 overrides R43 of the CAS Code of Sports-related Arbitration to the extent of any inconsistency.

**Article 18 Automatic *Disqualification* of individual results**

An anti-doping rule violation in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Competition* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.²⁶

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²⁶ When an *Athlete* wins a gold medal with a *Prohibited Substance* in his or her system, that is unfair to the other *Athletes* in that competition regardless of whether the gold medallist was at fault in any way. Only a “clean” *Athlete* should be allowed to benefit from his or her competitive results.

For *Team Sports*, see Article 20. In sports that are not *Team Sports* but where awards are given to teams, *Disqualification* or other disciplinary action against the team when one or more team members have committed an anti-doping rule violation shall be as provided in the applicable rules of the *International Federation*. 
Article 19  Sanctions on individuals

19.1 Disqualification of results in the Event during which an anti-doping rule violation occurs

An anti-doping rule violation occurring during, or in connection with, an Event may, upon the decision of the ruling body of the Event, lead to Disqualification of all of the Athlete’s individual results obtained in that Event with all Consequences, including forfeiture of all medals, points and prizes, except as provided in Article 19.1.1.27

19.1.1 If the Athlete establishes that he or she bears No Fault or Negligence for the violation, the Athlete’s individual results in the other Competitions shall not be Disqualified unless the Athlete’s results in Competitions other than the Competition in which the anti-doping rule violation occurred were likely to have been affected by the Athlete’s anti-doping rule violation.

19.2 Ineligibility for Presence, Use or Attempted Use, or Possession of Prohibited Substances and Prohibited Methods

The period of Ineligibility imposed for a violation of Articles 6.1, 6.2 or 6.6 shall be as follows, unless the conditions for eliminating or reducing the period of Ineligibility, as provided in Articles 19.5 and 19.6, or the conditions for increasing the period of Ineligibility, as provided in Article 19.7, are met:

First violation: Two (2) years’ Ineligibility.28

19.3 Ineligibility for other anti-doping rule violations

The period of Ineligibility for anti-doping rule violations other than as provided in Article 19.2 shall be as follows:

27 Whereas Article 18 disqualifies the result in a single Competition in which the Athlete tested positive (such as the 100-metre backstroke), this Article may lead to Disqualification of all results in all races during the Event (such as the FINA World Championships). Factors to be included in considering whether to Disqualify other results in an Event might include, for example, the severity of the Athlete’s anti-doping rule violation and whether the Athlete tested negative in the other Competitions.

28 Harmonisation of sanctions has been one of the most discussed and debated areas of anti-doping. Harmonisation means that the same rules and criteria are applied to assess the unique facts of each case. Arguments against requiring harmonisation of sanctions are based on differences between sports including, for example, the following: in some sports the Athletes are professionals making a sizable income from the sport and in others the Athletes are true amateurs; in those sports where an Athlete’s career is short (such as artistic gymnastics), a two-year Disqualification has a much more significant effect on the Athlete than in sports where careers are traditionally much longer (such as equestrian and shooting); in Individual Sports, the Athlete is better able to maintain competitive skills through solitary practice during Disqualification than in other sports where practice as part of a team is more important. A primary argument in favour of harmonisation is that it is simply not right that two Athletes from the same country who test positive for the same Prohibited Substance under similar circumstances should receive different sanctions only because they participate in different sports. In addition, flexibility in sanctioning has often been viewed as an unacceptable opportunity for some sporting organisations to be more lenient with dopers. The lack of harmonisation of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organisations.
19.3.1 For violations of Article 6.3 or 6.5, the **Ineligibility** period shall be two (2) years unless the conditions provided in Article 19.6, or the conditions provided in Article 19.7, are met.

19.3.2 For violations of Article 6.7 or 6.8, the period of **Ineligibility** imposed shall be a minimum of four (4) years up to lifetime **Ineligibility** unless the conditions provided in Article 19.6 are met. An anti-doping rule violation involving a *Minor* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than *Specified Substances* referenced in Article 8.3.2, shall result in lifetime **Ineligibility** for *Athlete Support Personnel*. In addition, significant violations of Article 6.7 or 6.8, which may also violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.29

19.3.3 For violations of Article 6.4, the period of **Ineligibility** shall be at a minimum one (1) year and at a maximum two (2) years based on the *Athlete’s* degree of fault.30

19.4 **Additional sanction**

19.4.1 The ASC, the applicable NSO, AOC, APC, ACCA and/or any relevant SIS/ SAS may, where applicable, require the *Athlete* or other *Person* to repay all funding and grants received from the relevant body, subsequent to the occurrence of the anti-doping rule violation.31 CAS or a *Tribunal* can make a determination following submissions from the relevant parties. However, no financial sanction may be considered a basis for reducing the period of **Ineligibility** or other sanction that would otherwise be applicable under this Policy. Repayment of funding and grants may be made a condition of reinstatement.

19.4.2 CAS or a *Tribunal* may determine, in addition to applying a sanction in accordance with this Article 19, that a *Person* who has committed an anti-doping rule violation is required to go to counselling for a specified period as a condition of reinstatement.

19.4.3 Where the hearings or appeals panel determines that an employee or contractor of the ASC has committed an anti-doping rule violation, the ASC will take disciplinary action against the employee or contractor.

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29 Those who are involved in doping *Athletes* or covering up doping should be subject to sanctions that are more severe than the *Athletes* who test positive. Since the authority of *Sporting Organisations* is generally limited to **Ineligibility** for credentials, membership and other sport benefits, reporting *Athlete Support Personnel* to competent authorities is an important step in the deterrence of doping.

30 The sanction under Article 19.3.3 shall be two (2) years where all three *Filing Failures or Missed Tests* are inexcusable. Otherwise, the sanction shall be assessed in the range of two (2) years to one (1) year, based on the circumstances of the case.

31 The ASC may have additional rights to recover funding and grants under its own rules or agreements with relevant *Persons*, including to recover funding or grants received by the *Person* prior to the occurrence of the anti-doping rule violation.
19.5 **Elimination or reduction of the period of Ineligibility for Specified Substances under specific circumstances**

Where an Athlete or other Person can establish how a specified substance entered his or her body, or came into his or her Possession and that such specified substance was not intended to enhance the Athlete's sport performance or mask the Use of a performance-enhancing substance, the period of Ineligibility found in Article 19.2 shall be replaced with the following:

**First violation:** At a minimum, a reprimand and no period of Ineligibility from future Events, and at a maximum, two (2) years of Ineligibility.

To justify any elimination or reduction, the Athlete or other Person must produce corroborating evidence in addition to his or her word which establishes to the comfortable satisfaction of the hearing panel the absence of an intent to enhance sport performance or mask the Use of a performance-enhancing substance. The Athlete's or other Person's degree of fault shall be the criterion considered in assessing any reduction of the period of Ineligibility.  

32 **Specified Substances** are not necessarily less serious agents for purposes of sports doping than other Prohibited Substances (for example, a stimulant that is listed as a specified substance could be very effective to an Athlete In-Competition); for that reason, an Athlete who does not meet the criteria under this Article would receive a two (2) year period of Ineligibility and could receive up to a four (4) year period of Ineligibility under Article 19.7. However, there is a greater likelihood that Specified Substances, as opposed to other Prohibited Substances, could be susceptible to a credible, non-doping explanation. This Article applies only in those cases where the hearing panel is comfortably satisfied by the objective circumstances of the case that the Athlete in taking or Possessing a Prohibited Substance did not intend to enhance his or her sport performance. Examples of the type of objective circumstances which in combination might lead a hearing panel to be comfortably satisfied of no performance-enhancing intent would include: the fact that the nature of the specified substance or the timing of its ingestion would not have been beneficial to the Athlete; the Athlete's open Use or disclosure of his or her Use of the specified substance; and a contemporaneous medical records file substantiating the non sport-related prescription for the specified substance. Generally, the greater the potential performance-enhancing benefit, the higher the burden on the Athlete to prove lack of intent to enhance sport performance.

While the absence of intent to enhance sport performance must be established to the comfortable satisfaction of the hearing panel, the Athlete may establish how the specified substance entered his or her body by a balance of probability.

In assessing the Athlete's or other Person's degree of fault, the circumstances considered must be specific and relevant to explain the Athlete's or other Person's departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article. It is anticipated that the period of Ineligibility will be eliminated entirely in only the most exceptional cases.

19.6 **Elimination or reduction of period of Ineligibility based on exceptional circumstances**

19.6.1 **No Fault or Negligence**

If an Athlete establishes in an individual case that he or she bears No Fault or Negligence, the otherwise applicable period of Ineligibility shall be eliminated. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete’s Sample in violation of Article 6.1, the Athlete must also establish how the Prohibited Substance entered his or her system.
in order to have the period of Ineligibility eliminated. In the event this Article is applied and the period of Ineligibility otherwise applicable is eliminated, the anti-doping rule violation shall not be considered a violation for the limited purpose of determining the period of Ineligibility for multiple violations under Article 19.8.

19.6.2 No Significant Fault or Negligence

If an Athlete or other Person establishes in an individual case that he or she bears No Significant Fault or Negligence, then the otherwise applicable period of Ineligibility may be reduced, but the reduced period of Ineligibility may not be less than one half of the period of Ineligibility otherwise applicable. If the otherwise applicable period of Ineligibility is a lifetime, the reduced period under this Article may be no less than eight (8) years. When a Prohibited Substance or its Markers or Metabolites is detected in an Athlete’s Sample in violation of Article 6.1, the Athlete must also establish how the Prohibited Substance entered his or her system in order to have the period of Ineligibility reduced. 33

33 The Code provides for the possible reduction or elimination of the period of Ineligibility in the unique circumstance where the Athlete can establish that he or she had No Fault or Negligence, or No Significant Fault or Negligence, in connection with the violation. This approach is consistent with basic principles of human rights and provides a balance between those Anti-Doping Organisations that argue for a much narrower exception, or none at all, and those that would reduce a two-year suspension based on a range of other factors even when the Athlete was admittedly at fault. These Articles apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. Article 19.6.2 may be applied to any anti-doping rule violation even though it will be especially difficult to meet the criteria for a reduction for those anti-doping rule violations where knowledge is an element of the violation.

Articles 19.6.1 and 19.6.2 are meant to have an impact only in cases where the circumstances are truly exceptional and not in the vast majority of cases.

To illustrate the operation of Article 19.6.1, an example where No Fault or Negligence would result in the total elimination of a sanction is where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, a sanction could not be completely eliminated on the basis of No Fault or Negligence in the following circumstances: (a) a positive test resulting from a mislabelled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest — Article 6.1.1 and have been warned against the possibility of supplement contamination); (b) the administration of a Prohibited Substance by the Athlete’s personal physician or trainer without disclosure to the Athlete (Athletes are responsible for their choice of medical personnel and for advising medical personnel that they cannot be given any Prohibited Substance); and (c) sabotage of the Athlete’s food or drink by a spouse, coach or other Person within the Athlete’s circle of associates. (Athletes are responsible for what they ingest and for the conduct of those Persons to whom they entrust access to their food and drink). However, depending on the unique facts of a particular case, any of the referenced illustrations could result in a reduced sanction based on No Significant Fault or Negligence. (For example, reduction may well be appropriate in illustration (a) if the Athlete clearly establishes that the cause of the positive test was contamination in a common multiple vitamin purchased from a source with no connection to Prohibited Substances and the Athlete exercised care in not taking other nutritional supplements.) For purposes of assessing the Athlete’s or other Person’s fault under Articles 19.6.1 and 19.6.2, the evidence considered must be specific and relevant to explain the Athlete’s or other Person’s departure from the expected standard of behaviour. Thus, for example, the fact that an Athlete would lose the opportunity to earn large sums of money during a period of Ineligibility or the fact that the Athlete only has a short time left in his or her career or the timing of the sporting calendar would not be relevant factors to be considered in reducing the period of Ineligibility under this Article.
19.6.3 **Substantial Assistance** in discovering or establishing anti-doping rule violations

CAS or the Tribunal may, prior to a final appellate decision under Article 21 or the expiration of the time to appeal, suspend a part of the period of **Ineligibility** imposed in an individual case where the Athlete or other Person has provided **Substantial Assistance** to ASADA, another Anti-Doping Organisation, criminal authority or professional disciplinary body, which results in ASADA or another Anti-Doping Organisation discovering or establishing an anti-doping rule violation by another Person, or which results in a criminal or disciplinary body discovering or establishing a criminal offence or the breach of professional rules by another Person. After a final appellate decision under Article 21 or the expiration of time to appeal, ASADA and the ASC may suspend a part of the otherwise applicable period of **Ineligibility** but only with the approval of WADA and the applicable IF. The extent to which the otherwise applicable period of **Ineligibility** may be suspended shall be based on the seriousness of the anti-doping rule violation committed by the Athlete or other Person and the significance of the **Substantial Assistance** provided by the Athlete or other Person to the effort to eliminate doping in sport. No more than three-quarters of the otherwise applicable period of **Ineligibility** may be suspended. If the otherwise applicable period of **Ineligibility** is a lifetime, the non-suspended period under this section must be no less than eight (8) years. If any part of the otherwise applicable period of **Ineligibility** is suspended under this Article, the body so suspending it shall promptly provide a written justification for its decision to each Anti-Doping Organisation having a right to appeal the decision. If any part of the suspended period of **Ineligibility** is subsequently reinstated because the Athlete or other Person has failed to provide the **Substantial Assistance**, which was anticipated, the Athlete or other Person may appeal the reinstatement pursuant to Article 21.34

While Minors are not given special treatment per se in determining the applicable sanction, certainly youth and lack of experience are relevant factors to be assessed in determining the Athlete’s or other Person’s fault under Article 19.6.2, as well as Articles 19.3.3, 19.5 and 19.6.1.

Article 19.6.2 should not be applied in cases where Articles 19.3.3 or 19.5 apply, as those Articles already take into consideration the Athlete’s or other Person’s degree of fault for purposes of establishing the applicable period of **Ineligibility**.

34 The cooperation of Athletes, Athlete Support Personnel and other Persons who acknowledge their mistakes and are willing to bring other anti-doping rule violations to light is important to clean sport. Factors to be considered in assessing the importance of the **Substantial Assistance** would include, for example, the number of individuals implicated, the status of those individuals in the sport, whether a scheme involving **Trafficking** under Article 6.7 or administration under Article 6.8 is involved and whether the violation involved a substance or method that is not readily detectible in **Testing**. The maximum suspension of the **Ineligibility** period shall only be applied in very exceptional cases. An additional factor to be considered in connection with the seriousness of the anti-doping rule violation is any performance-enhancing benefit, which the Person providing **Substantial Assistance** may be likely to still enjoy. As a general matter, the earlier in the results-management process the **Substantial Assistance** is provided, the greater the percentage of the otherwise applicable period of **Ineligibility** may be suspended.
19.6.4 Admission of an anti-doping rule violation in the absence of other evidence

Where an Athlete or other Person voluntarily admits the commission of an anti-doping rule violation before having received notice of a Sample collection that could establish an anti-doping rule violation, or, in the case of an anti-doping rule violation other than Article 6.1, before receiving first notice of the admitted violation pursuant to Article 15.5 and that admission is the only reliable evidence of the violation at the time of admission, then the period of Ineligibility may be reduced, but not below one half of the period of Ineligibility otherwise applicable.35

35 This Article is intended to apply when an Athlete or other Person comes forward and admits to an anti-doping rule violation in circumstances where no Anti-Doping Organisation is aware that an anti-doping rule violation might have been committed. It is not intended to apply to circumstances where the admission occurs after the Athlete or other Person believes he or she is about to be caught.
19.6.5 Where an Athlete or other Person establishes entitlement to reduction in Sanction under more than one (1) provision of this Article

Before applying any reduction or suspension under Articles 19.6.2, 19.6.3 or 19.6.4, the otherwise applicable period of Ineligibility shall be determined in accordance with Articles 19.2, 19.3, 19.5 and 19.7. If the Athlete or other Person establishes entitlement to a reduction or suspension of the period of Ineligibility under two or more of Articles 19.6.2, 19.6.3 or 19.6.4, then the period of Ineligibility may be reduced or suspended, but not below one-quarter of the otherwise applicable period of Ineligibility. 36

36 The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions, Article 19.2, 19.3, 19.5 or 19.7, applies to the particular anti-doping rule violation. In a second step, the hearing panel establishes whether there is a basis for suspension, elimination or reduction of the sanction, Article 19.6.1 through Article 19.6.4. Note, however, not all grounds for suspension, elimination or reduction may be combined with the provisions on basic sanctions. For example, Article 19.6.2 does not apply in cases involving Articles 19.3.3 or 19.5, since the hearing panel, under Articles 19.3.3 and 19.5, will already have determined the period of Ineligibility based on the Athlete’s or other Person’s degree of fault. In a third step, the hearing panel determines under Article 19.6.5 whether the Athlete or other Person is entitled to elimination, reduction or suspension under more than one provision of Article 19.6. Finally, the hearing panel decides on the commencement of the period of Ineligibility under Article 19.10. The following four examples demonstrate the proper sequence of analysis.

Example 1

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; the Athlete promptly admits the anti-doping rule violation as asserted; the Athlete establishes No Significant Fault under Article 19.6.2; and the Athlete provides Substantial Assistance under Article 19.6.3.

Application of Article 19:

1 The basic sanction would be two (2) years under Article 19.2. (Article 19.7 — would not be considered because the Athlete promptly admitted the violation. Article 19.5 would not apply because a steroid is not a specified substance.)

2 Based on No Significant Fault alone, the sanction could be reduced up to one half of the two (2) years. Based on Substantial Assistance alone, the sanction could be reduced up to three quarters of the two (2) years.

3 Under Article 19.6.5, in considering the possible reduction for No Significant Fault and Substantial Assistance together, the most the sanction could be reduced is up to three quarters of the two (2) years. Thus, the minimum sanction would be a six (6) month period of Ineligibility.

4 Under Article 19.10.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event the Athlete would have to serve at least one half of the Ineligibility period (minimum three months) after the date of the hearing decision.

Example 2

Facts: An Adverse Analytical Finding involves the presence of an anabolic steroid; aggravating circumstances exist and the Athlete is unable to establish that he did not knowingly commit the anti-doping rule violation; the Athlete does not promptly admit the anti-doping rule violation as alleged, but the Athlete does provide Substantial Assistance in accordance with Article 19.6.3.

Application of Article 19:

1 The basic sanction would be between two (2) and four (4) years’ Ineligibility, as provided in Article 19.7.

2 Based on Substantial Assistance, the sanction could be reduced up to three quarters of the maximum four (4) years.

3 Article 19.6.5 does not apply.

4 Under Article 19.10.2, the period of Ineligibility would start on the date of the hearing decision.
19.7 **Aggravating circumstances that may increase the period of Ineligibility**

If ASADA or the ASC establishes in an individual case involving an anti-doping rule violation other than violations under Articles 6.7 and 6.8, that aggravating circumstances are present which justify the imposition of a period of Ineligibility greater than the standard sanction, then the period of Ineligibility otherwise applicable shall be increased up to a maximum of four (4) years unless the Athlete or other Person can prove to the comfortable satisfaction of the hearing panel that he or she did not knowingly commit the anti-doping rule violation.

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**Example 3**

**Facts:** An Adverse Analytical Finding involves the presence of a specified substance; the Athlete establishes how the specified substance entered his body and that he had no intent to enhance his sport performance; the Athlete establishes that he had very little fault; and the Athlete provides Substantial Assistance in accordance with Article 19.6.3.

**Application of Article 19:**

1. Because the Adverse Analytical Finding involved a specified substance and the Athlete has satisfied the other conditions of Article 19.5, the basic sanction would fall in the range between a reprimand and two (2) years’ Ineligibility. The hearing panel would assess the Athlete’s fault in imposing a sanction within that range. (Assume for illustration in this example that the panel would otherwise impose a period of Ineligibility of eight months.)

2. Based on Substantial Assistance, the sanction could be reduced up to three quarters of the eight (8) months. (No less than two months.) No Significant Fault, under Article 19.2, would not be applicable because the Athlete’s degree of fault was already taken into consideration in establishing the eight (8) month period of Ineligibility in Step 1.

3. Article 19.6.5 does not apply.

4. Under Article 19.10.2, because the Athlete promptly admitted the anti-doping rule violation, the period of Ineligibility could start as early as the date of Sample collection, but in any event, the Athlete would have to serve at least one half of the Ineligibility period after the date of the hearing decision. (Minimum one month.)

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**Example 4**

**Facts:** An Athlete who has never had an Adverse Analytical Finding or been confronted with an anti-doping rule violation spontaneously admits that he intentionally Used multiple Prohibited Substances to enhance his performance. The Athlete also provides Substantial Assistance in accordance with Article 19.6.3.

**Application of Article 19:**

1. While the intentional Use of multiple Prohibited Substances to enhance performance would normally warrant consideration of aggravating circumstances under Article 19.7, the Athlete’s spontaneous admission means that Article 19.7 would not apply. The fact that the Athlete’s Use of Prohibited Substances was intended to enhance performance would also eliminate the application of Article 19.5, regardless of whether the Prohibited Substances Used were Specified Substances. Thus, Article 19.2 would be applicable and the basic period of Ineligibility imposed would be two (2) years.

2. Based on the Athlete’s spontaneous admissions in accordance with Article 19.6.4 alone, the period of Ineligibility could be reduced up to one half of the two (2) years. Based on the Athlete’s Substantial Assistance under Article 19.6.3 alone, the period of Ineligibility could be reduced up to three quarters of the two (2) years.

3. Under Article 19.6.5, in considering the spontaneous admission and Substantial Assistance together, the most the sanction could be reduced would be up to three quarters of the two (2) years. (The minimum period of Ineligibility would be six [6] months.)

4. If Article 19.6.4 was considered by the hearing panel in arriving at the minimum six (6) month period of Ineligibility at Step 3, the period of Ineligibility would start on the date the hearing panel imposed the sanction. If, however, the hearing panel did not consider the application of Article 19.6.4 in reducing the period of Ineligibility in Step 3, then under Article 19.10.2, the commencement of the period of Ineligibility could be started as early as the date the anti-doping rule violation was committed, provided that at least half of that period (a minimum of three [3] months) would have to be served after the date of the hearing decision.
An Athlete or other Person can avoid the application of this Article by admitting the anti-doping rule violation as asserted promptly after being confronted with the anti-doping rule violation by ASADA or the ASC.37

19.8 Multiple violations

19.8.1 Second anti-doping rule violation

For an Athlete’s or other Person’s first anti-doping rule violation, the period of Ineligibility is set forth in Articles 19.2 and 19.3 (subject to elimination, reduction or suspension under Articles 19.5 or 19.6, or to increase under Article 19.7). For a second anti-doping rule violation the period of Ineligibility shall be within the range set forth in the table that follows.38

<table>
<thead>
<tr>
<th>First violation</th>
<th>Second violation</th>
<th>RS</th>
<th>FFMT</th>
<th>NSF</th>
<th>St</th>
<th>AS</th>
<th>TRA</th>
</tr>
</thead>
<tbody>
<tr>
<td>RS</td>
<td>1–4</td>
<td>2–4</td>
<td>2–4</td>
<td>4–6</td>
<td>8–10</td>
<td>10–life</td>
<td></td>
</tr>
<tr>
<td>FFMT</td>
<td>1–4</td>
<td>4–8</td>
<td>4–8</td>
<td>6–8</td>
<td>10–life</td>
<td>life</td>
<td></td>
</tr>
<tr>
<td>NSF</td>
<td>1–4</td>
<td>4–8</td>
<td>4–8</td>
<td>6–8</td>
<td>10–life</td>
<td>life</td>
<td></td>
</tr>
<tr>
<td>St</td>
<td>2–4</td>
<td>6–8</td>
<td>6–8</td>
<td>8–life</td>
<td>life</td>
<td>life</td>
<td></td>
</tr>
<tr>
<td>AS</td>
<td>4–5</td>
<td>10–life</td>
<td>10–life</td>
<td>life</td>
<td>life</td>
<td>life</td>
<td></td>
</tr>
<tr>
<td>TRA</td>
<td>8–life</td>
<td>life</td>
<td>life</td>
<td>life</td>
<td>life</td>
<td>life</td>
<td></td>
</tr>
</tbody>
</table>

37 Examples of aggravating circumstances that may justify the imposition of a period of Ineligibility greater than the standard sanction are: the Athlete or other Person committed the anti-doping rule violation as part of a doping plan or scheme, either individually or involving a conspiracy or common enterprise to commit anti-doping rule violations; the Athlete or other Person Used or Possessed multiple Prohibited Substances or Prohibited Methods or Used or Possessed a Prohibited Substance or Prohibited Method on multiple occasions, a normal individual would be likely to enjoy the performance-enhancing effects of the anti-doping rule violation(s) beyond the otherwise applicable period of Ineligibility; the Athlete or Person engaged in deceptive or obstructing conduct to avoid the detection or adjudication of an anti-doping rule violation.

For the avoidance of doubt, the examples of aggravating circumstances described in this footnote to Article 19.7 are not exclusive and other aggravating factors may also justify the imposition of a longer period of Ineligibility. Violations under Articles 6.7 and 6.8 are not included in the application of Article 17.7 because the sanctions for these violations, from four (4) years to lifetime Ineligibility, already build in sufficient discretion to allow consideration of any aggravating circumstance.

38 The table is applied by locating the Athlete’s or other Person’s first anti-doping rule violation in the left-hand column and then moving across the table to the right, to the column representing the second violation. By way of example, assume an Athlete receives the standard period of Ineligibility for a first violation under Article 19.2 and then commits a second violation for which he receives a reduced sanction for a specified substance under Article 19.5. The table is used to determine the period of Ineligibility for the second violation. The table is applied to this example by starting in the left-hand column and going down to the fourth row, which is “St” for standard sanction, then moving across the table to the first column, which is “RS” for reduced sanction for a specified substance, thus resulting in a two (2) to four (4) year range for the period of Ineligibility for the second violation. The Athlete’s or other Person’s degree of fault shall be the criterion considered in assessing a period of Ineligibility within the applicable range.
Definitions for purposes of the second anti-doping rule violation table

**RS** Reduced sanction for *Specified Substance* under Article 19.5
The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 19.5 because it involved a *Specified Substance* and the other conditions under Article 19.5 were met.39

**FFMT** *Filing Failures and/or Missed Tests*
The anti-doping rule violation was or should be sanctioned under Article 19.3.3.

**NSF** Reduced sanction for *No Significant Fault or Negligence*
The anti-doping rule violation was or should be sanctioned by a reduced sanction under Article 19.6.2 because *No Significant Fault or Negligence* under Article 19.6.2 was proved by the *Athlete*.

**St** Standard sanction under Article 19.2 or 19.3.1
The anti-doping rule violation was or should be sanctioned by the standard sanction of two (2) years under Article 19.2 or 19.3.1.

**AS** Aggravated sanction
The anti-doping rule violation was or should be sanctioned by an aggravated sanction under Article 19.7 because ASADA or the ASC established the conditions set forth under Article 19.7.

**TRA** *Trafficking or Attempted Trafficking* and administration or *Attempted administration*
The anti-doping rule violation was or should be sanctioned by a sanction under Article 19.3.2.

19.8.2 Application of Articles 19.6.3 and 19.6.4 to second anti-doping rule violation
Where an *Athlete* or other *Person* who commits a second anti-doping rule violation establishes entitlement to suspension or reduction of a portion of the period of *Ineligibility* under Article 19.6.3 or 19.6.4, the hearing panel shall first determine the otherwise applicable period of *Ineligibility* within the range established in the table in Article 19.8.1, and then apply the appropriate suspension or reduction of the period of *Ineligibility*. The remaining period of *Ineligibility*, after applying any suspension or reduction under Articles 19.6.3 and 19.6.4, must be at least one fourth of the otherwise applicable period of *Ineligibility*.

19.8.3 Third anti-doping rule violation
A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfils the condition for elimination or reduction of the period of *Ineligibility* under Article 19.5 or involves a violation of Article 6.4. In these particular cases, the period of *Ineligibility* shall be from eight (8) years to a life ban.

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39 See Article 25.4 of the *Code* with respect to application of Article 19.8.1 to pre-Code anti-doping rule violations.
19.8.4 Additional rules for certain potential multiple violations

a For the purposes of imposing sanctions under Article 19.8, an anti-doping rule violation will only be considered a second violation if ASADA or the ASC can establish that the Athlete or other Person committed the second anti-doping rule violation after the Athlete or other Person received notice pursuant to Article 15, or after ASADA made reasonable efforts to give notice of the first anti-doping rule violation. If ASADA or the ASC cannot establish this, the violations shall be considered together as one single first violation, and the sanction imposed shall be based on the violation that carries the more severe sanction; however, the occurrence of multiple violations may be considered as a factor in determining aggravating circumstances in accordance with Article 19.7.

b If, after the resolution of a first anti-doping rule violation, ASADA discovers facts involving an anti-doping rule violation by the Athlete or other Person which occurred prior to notification regarding the first violation, then the ASC shall impose an additional sanction based on the sanction that could have been imposed if the two violations would have been adjudicated at the same time. Results in all Competitions dating back to the earlier anti-doping rule violation will be Disqualified as provided in Article 19.9. To avoid the possibility of a finding of aggravating circumstances under Article 19.7, on account of the earlier-in-time but later-discovered violation, the Athlete or other Person must voluntarily admit the earlier anti-doping rule violation on a timely basis after notice of the violation for which he or she is first charged. The same rule shall also apply when ASADA discovers facts involving another prior violation after the resolution of a second anti-doping rule violation.40

19.8.5 Multiple anti-doping rule violations during an eight (8) year period

For purposes of Article 19.8, each anti-doping rule violation must take place within the same eight (8) year period in order to be considered multiple violations.

40 In a hypothetical situation, an Athlete commits an anti-doping rule violation on 1 January 2008, which the Anti-Doping Organisation does not discover until 1 December 2008. In the meantime, the Athlete commits another anti-doping rule violation on 1 March 2008, and the Athlete is notified of this violation by the Anti-Doping Organisation on 30 March 2008. A hearing panel rules on 30 June 2008 that the Athlete committed the 1 March 2008 anti-doping rule violation. The later-discovered violation, which occurred on 1 January 2008 will provide the basis for aggravating circumstances because the Athlete did not voluntarily admit the violation in a timely basis after the Athlete received notification of the later violation on 30 March 2008.
19.9 Disqualification of results in Competitions subsequent to Sample collection or commission of an anti-doping rule violation

In addition to the automatic Disqualification of the results in the Competition, which produced the positive Sample under Article 18, all other competitive results obtained from the date a positive Sample was collected (whether In-Competition or Out-of-Competition), or other anti-doping rule violation occurred, through the commencement of any Provisional Suspension or Ineligibility period, shall, unless fairness requires otherwise, be Disqualified with all of the resulting Consequences including forfeiture of any medals, points and prizes.

19.9.1 As a condition of regaining eligibility after being found to have committed an anti-doping rule violation, the Athlete must first repay all prize money forfeited under this Article.

19.9.2 Allocation of forfeited prize money

Unless the rules of the applicable IF provide that forfeited prize money shall be reallocated to other Athletes, it shall be allocated first to reimburse the collection expenses of the Anti-Doping Organisation that performed the necessary steps to collect the prize money back, then to reimburse the expenses of ASADA and/or ASC in conducting results management in the case, with the balance, if any allocated in accordance with the applicable IF rules.

19.10 Commencement of Ineligibility period

Except as provided below, the period of Ineligibility shall start on the date of the hearing decision providing for Ineligibility or, if the hearing is waived, on the date Ineligibility is accepted or otherwise imposed. Any period of Provisional Suspension, whether imposed or voluntarily accepted, shall be credited against the total period of Ineligibility imposed.

19.10.1 Delays not attributable to the Athlete or other Person

Where there have been substantial delays in the hearing process or other aspects of Doping Control not attributable to the Athlete or other Person, CAS or the Tribunal determining the sanction may start the period of Ineligibility at an earlier date, commencing as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred.

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41 Nothing in the Code or this Policy precludes clean Athletes or other Persons who have been damaged by the actions of a Person who has committed an anti-doping rule violation from pursuing any right that they would otherwise have to seek damages from such Person.

42 The text of Article 10.9 of the Code, upon which this Article is based, has been revised to make clear that delays not attributable to the Athlete, timely admission by the Athlete and Provisional Suspension are the only justifications for starting the period of Ineligibility earlier than the date of the hearing decision. This amendment corrects inconsistent interpretation and application of the previous text.
19.10.2 Timely admission

Where the Athlete or other Person promptly (which, in all events, for an Athlete means before the Athlete competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by ASADA, the period of Ineligibility may start as early as the date of Sample collection or the date on which another anti-doping rule violation last occurred. In each case, however, where this Article is applied, the Athlete or other Person shall serve at least one half of the period of Ineligibility going forward from the date the Athlete or other Person accepted the imposition of a sanction, the date of a hearing decision imposing a sanction, or the date the sanction is otherwise imposed.43

19.10.3 If a Provisional Suspension is imposed and respected by the Athlete, then the Athlete shall receive a credit for such period of Provisional Suspension against any period of Ineligibility that may ultimately be imposed.

19.10.4 If an Athlete voluntarily accepts a Provisional Suspension in writing from ASADA or the ASC and thereafter refrains from competing, the Athlete shall receive a credit for such period of voluntary Provisional Suspension against any period of Ineligibility that may ultimately be imposed. A copy of the Athlete's voluntary acceptance of a Provisional Suspension shall be provided promptly to each party entitled to receive notice of a potential anti-doping rule violation under the Code.44

19.10.5 No credit against a period of Ineligibility shall be given for any time period before the effective date of the Provisional Suspension or voluntary Provisional Suspension, regardless of whether the Athlete elected not to compete or was suspended by his or her team.

19.11 Status during Ineligibility

19.11.1 Prohibition against participation during Ineligibility

No Athlete or other Person who has been declared Ineligible may, during the period of Ineligibility, participate in any capacity in a Competition or activity (other than authorised anti-doping education or rehabilitation programs) authorised or organised by any Signatory, Signatory's member organisation or a club or other member organisation of a Signatory's member organisation, the ASC, their IF, their NSO or its Members, or in Competitions authorised or organised by any professional league or any international-level or national-level Event organisation. This would include, for example:

43 This Article shall not apply where the period of Ineligibility already has been reduced under Article 19.6.4.

44 An Athlete’s voluntary acceptance of a Provisional Suspension is not an admission by the Athlete and shall not be used in any way as to draw an adverse inference against the Athlete.
a practising or training with any national, state or club team or scholarship squad
b acting as a coach or sport official
c selection in any representative team or scholarship squad
d competing in any Competitions or Events
e receiving, directly or indirectly, funding or assistance from the ASC
f use of official ASC facilities
g holding any position with the ASC.

An Athlete or other Person subject to a period of Ineligibility longer than four (4) years may, after completing four (4) years of the period of Ineligibility, participate in local sport events in a sport other than the sport in which the Athlete or other Person committed the anti-doping rule violation, but only when the local sport event is not at a level that could otherwise qualify such Athlete or other Person directly or indirectly to compete in, or accumulate points toward, a national championship or International Event.

An Athlete or other Person subject to a period of Ineligibility shall remain subject to Testing.45

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45 For example, an ineligible Athlete cannot participate in a training camp, exhibition or practice organised by the ASC or a NSO or other member organisation of a NSO. Further, an Ineligible Athlete may not compete in a non-signatory professional league (for example, the National Hockey League or the National Basketball Association), Events organised by a non-signatory International Event organisation, or a non-signatory national-level event organisation without triggering the consequences set forth in Article 19.11.2. Sanctions in one sport will also be recognised by other sports in accordance with Article 23.
19.11.2 Violation of the prohibition of participation during Ineligibility

Where an Athlete or other Person who has been declared Ineligible violates the prohibition against participation during Ineligibility described in Article 19.11.1, the results of such participation shall be Disqualified and the period of Ineligibility that was originally imposed shall start over again as of the date of the violation. The new period of Ineligibility may be reduced under Article 19.6.2 if the Athlete or other Person establishes that he or she bears No Significant Fault or Negligence for violating the prohibition against participation. The determination of whether an Athlete or other Person has violated the prohibition against participation, and whether a reduction under Article 19.6.2 is appropriate, shall be made by the Anti-Doping Organisation whose results management led to the imposition of the initial period of Ineligibility.46

19.11.3 Withholding of financial support during Ineligibility

In addition, for any anti-doping rule violation not involving a reduced sanction for Specified Substances as described in Article 19.5, some or all sport-related financial support or other sport-related benefits received by such Person will be withheld by the ASC.

19.12 Reinstatement Testing

As a condition to regaining eligibility at the end of a specified period of Ineligibility, an Athlete must, during any period of Provisional Suspension or Ineligibility, make him or herself available for Out-of-Competition Testing by ASADA and any other Anti-Doping Organisation having Testing jurisdiction, and if requested, must provide current and accurate whereabouts information as provided in Article 10. If an Athlete subject to a period of Ineligibility retires from sport and is removed from Registered Testing Pools and later seeks reinstatement, the Athlete shall not be eligible for reinstatement until the Athlete has notified ASADA, in accordance with Article 11.2.4, and has been subject to Out-of-Competition Testing for a period of time equal to the longer of the period set forth in Article 11.2.6 or the period of Ineligibility remaining as of the date the Athlete had retired.

19.13 Imposition of financial sanctions

The ASC may provide for financial sanctions on account of anti-doping rule violations in its rules. However, no financial sanction may be considered a basis for reducing the period of Ineligibility or other sanction that would otherwise be applicable under this Policy or the Code.

Article 20 Consequences to teams

46 If an Athlete or other Person is alleged to have violated the prohibition against participation during a period of Ineligibility, ASADA shall determine whether the Athlete or other Person violated the prohibition, and if so, whether the Athlete or other Person has established grounds for a reduction in the restarted period of Ineligibility under Article 19.6.2. Decisions rendered by ASADA under this Article may be appealed pursuant to Article 21.
20.1 **Testing of Team Sports**

Where more than one (1) member of a team in a Team Sport has been notified of an anti-doping rule violation under Article 6 in connection with an Event, the ruling body for the Event shall conduct appropriate Target Testing of the team during the Event Period.

20.2 **Consequences for Team Sports**

If more than two (2) members of a team in a Team Sport are found to have committed an anti-doping rule violation during an Event Period, the ruling body of the Event shall impose an appropriate sanction on the team (for example, loss of points, Disqualification from a Competition or Event, or other sanction) in addition to any Consequences imposed upon the individual Athletes committing the anti-doping rule violations.

20.3 **Event Ruling body may establish stricter Consequences for Team Sports**

The ruling body for an Event may elect to establish rules for the Event that impose Consequences for Team Sports stricter than those in Article 20.2 for purposes of the Event.47

**Article 21 Appeals**

21.1 **Decisions subject to appeal**

Decisions made under this Policy may be appealed as set forth below in Article 21.2 through Article 21.4. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review authorised in the NAD scheme or Article 17.10 must be exhausted.

Where Athlete Support Personnel or another Person substantially assists an Athlete in violating the prohibition against participation during Ineligibility, ASC may appropriately impose sanctions under its own disciplinary rules for such assistance.

47 For example, the International Olympic Committee could establish rules that would require Disqualification of a team from the Games of the Olympiad based on a lesser number of anti-doping rule violations during the period of the Games of the Olympiad.

48 The object of the Code and this Policy is to have anti-doping matters resolved through fair and transparent internal processes with a final appeal. Anti-doping decisions by Anti-Doping Organisations are made transparent in Article 22. Specified Persons and organisations, including WADA, are then given the opportunity to appeal those decisions. Note that the definition of interested Persons and organisations with a right to appeal under Article 21 does not include Athletes, or their federations, who might benefit from having another competitor disqualified.
21.1.1 WADA not required to exhaust internal remedies

Where WADA has a right to appeal under this Article 21 and no other party has appealed a final decision within the process set out in this Policy, WADA may appeal such decision directly to CAS without having to exhaust other remedies set out in this Policy.49

21.2 Appeals from decisions regarding anti-doping rule violations, Consequences, and Provisional Suspensions

A decision that an anti-doping rule violation was committed, a decision imposing Consequences for an anti-doping rule violation, or a decision that no anti-doping rule violation was committed; a decision that an anti-doping rule violation proceeding cannot go forward for procedural reasons (including, for example, prescription); a decision under Article 19.11.2; a decision that ASADA or the ASC lacks jurisdiction to rule on an alleged anti-doping rule violation or its Consequences; a decision by ASADA or the ASC not to bring forward an Adverse Analytical Finding or an Atypical Finding as an anti-doping rule violation after an investigation under Article 15; and a decision to impose a Provisional Suspension as a result of a Provisional Hearing or in violation of Article 16.3, may be appealed exclusively as provided in this Article 21.2.

21.2.1 Appeals involving International-Level Athletes

In cases arising from participation in an International Event or in cases involving International-Level Athletes, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court. Any such appeal will apply Articles 5, 6, 7, 8, 18 and 19 of this Policy.50

21.2.2 Appeals involving non-International-Level Athletes

In cases involving Athletes who do not have a right to appeal under Article 21.2.1, the appeal shall be to either:

• the CAS Appeals Division, or
• a Tribunal, constituted differently than for the original hearing.

The appeal shall respect the following principles:

• a timely hearing
• a fair, impartial and independent hearing body
• the right to be represented by a counsel at the Person’s expense
• a timely, written, reasoned decision.

49 Where a decision has been rendered before the final stage of an Anti-Doping Organisation’s process (for example, a first hearing) and no party elects to appeal that decision to the next level of the Anti-Doping Organisation’s process (for example, the managing board), then WADA may bypass the remaining steps in the Anti-Doping Organisation’s internal process and appeal directly to CAS.

50 CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.
Any such appeal will apply Articles 5, 6, 7, 8, 18 and 19 of this Policy.

a The determination of the appeals body will be final and binding on the parties to the appeal and no Person may institute or maintain proceedings in any court or tribunal other than the appeals body set out in this Article 21.2.2.

b ASADA or the ASC must inform any Person or organisation informed of the original determination the outcome of any appeal within seven (7) days of the release by the appeals body of the written decision of the appeal.

21.2.3 Persons entitled to appeal — International-Level Athletes

In cases under Article 21.2.1, the following parties shall have the right to appeal to the CAS:

a the Athlete or other Person who is the subject of the decision being appealed

b the other party to the case in which the decision was rendered
c the ASC
d the applicable IF
e ASADA
f the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games or Paralympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games
g WADA
21.2.4 Persons entitled to appeal — non-International-Level Athletes

In cases under Article 21.2.2, the parties having the right to appeal to the appeals body shall be as provided in the NAD scheme, but at a minimum shall include the following parties:

a the Athlete or other Person who is the subject of the decision being appealed
b the other party to the case in which the decision was rendered
c the ASC
d the applicable NSO
e the applicable IF
f ASADA
g WADA.

For cases under Article 21.2.2, ASADA, WADA and the applicable IF shall also have the right to appeal to CAS with respect to the decision of the appeals body if the appeals body is not CAS. Any party filing an appeal shall be entitled to assistance from CAS to obtain all relevant information from the Anti-Doping Organisation whose decision is being appealed and the information shall be provided if CAS so directs.

21.2.5 Appeals from Provisional Suspensions

Notwithstanding any other provision herein, the only Person who may appeal from a Provisional Suspension is the Athlete or other Person upon whom the Provisional Suspension is imposed.

21.3 Failure to render a timely decision by an Anti-Doping Organisation

Where, in a particular case, an Anti-Doping Organisation fails to render a decision with respect to whether an anti-doping rule violation was committed within a reasonable deadline set by WADA, WADA may elect to appeal directly to CAS as if the Anti-Doping Organisation had rendered a decision finding no anti-doping rule violation.51

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51 Given the different circumstances of each anti-doping rule violation investigation and results-management process, it is not feasible to establish a fixed time period for an Anti-Doping Organisation to render a decision before WADA may intervene by appealing directly to CAS. Before taking such action, however, WADA will consult with the Anti-Doping Organisation and give the Anti-Doping Organisation an opportunity to explain why it has not yet rendered a decision. Nothing in this Article prohibits an International Federation from also having rules that authorise it to assume jurisdiction for matters in which the results management performed by one of its national federations has been inappropriately delayed.
21.4 Appeals from decisions granting or denying a Therapeutic Use Exemption

21.4.1 Decisions by WADA reversing the grant or denial of a TUE may be appealed exclusively to CAS by the Athlete, or ASDMAC or other TUE Committee whose decision was reversed. Decisions denying TUEs that are not reversed by WADA may be appealed by International-Level Athletes to CAS and by other Athletes to the appeals body described in Article 21.2.2. If the appeals body reverses the decision to deny a TUE, that decision may be appealed to the CAS by WADA. Before an appeal is commenced under this Article, any review of the TUE as authorised in Articles 9.7 and 17.10 must be exhausted.

21.4.2 When WADA, ASDMAC, or other TUE committee fails to take action on a properly submitted TUE application within a reasonable time, the failure to decide may be considered a denial for purposes of the appeal rights provided in this Article.

21.5 Time for filing appeals

21.5.1 The time to file an appeal to CAS or the Tribunal shall be within twenty-one (21) days of the release by the original hearing body of the written decision of the initial hearing.

21.5.2 The filing deadline for an appeal or intervention filed by ASADA or WADA shall be the latter of:

a. twenty-one (21) days after the last day on which any other party in the case could have appealed, or

b. twenty-one (21) days after ASADA’s or WADA’s receipt of the complete file relating to the decision.

Article 22 Confidentiality and reporting

22.1 Confidentiality

22.1.1 The identity of any Athlete or other Person who is asserted to have committed an anti-doping rule violation may only be Publicly Disclosed by ASADA, or the ASC after consultation with ASADA, in accordance with the Code, the ASADA Act 2006, the NAD scheme or this Policy.

22.1.2 ASADA or the ASC, or any official of either, will not publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the Athlete, other Person or their representatives.
22.2 Public disclosure

22.2.1 No later than twenty (20) days after it has been determined in a hearing in accordance with Article 17 that an anti-doping rule violation has occurred and the time to appeal such decision has expired, or such hearing has been waived and the time to appeal the decision has expired, or the assertion of an anti-doping rule violation has not been challenged in a timely fashion, ASADA must Publicly Disclose at least: the disposition of the anti-doping matter, including the sport; the anti-doping rule violated; the name of the Athlete or other Person committing the violation; the Prohibited Substance or Prohibited Method involved; and the Consequences imposed. ASADA must also Publicly Disclose within twenty (20) days appeal decisions concerning anti-doping rule violations. ASADA will also, within the time period for publication, send all hearing and appeal decisions to WADA. The ASC may also elect to make a public statement in relation to the matter, following consultation with ASADA.

22.2.2 In any case where it is determined, after a hearing or appeal, that the Athlete or other Person did not commit an anti-doping rule violation, the decision may be Publicly Disclosed only with the consent of the Athlete or other Person who is the subject of the decision. ASADA will use reasonable efforts to obtain such consent, and if consent is obtained, will Publicly Disclose the decision in its entirety or in such redacted form as the Athlete or other Person may approve.

Article 23 Mutual recognition

23.1 Subject to the right to appeal provided in Article 21, the Testing, TUEs and hearing results or other final adjudications of any Signatory to the Code, which are consistent with the Code and are within that Signatory’s authority, shall be recognised and respected by the ASC.

23.2 The ASC may recognise the same determinations of other bodies that have not accepted the Code if the rules of those bodies are otherwise consistent with the Code. On being advised of such determination, the ASC shall take all necessary action to render the determination effective.

Article 24 Statute of limitations

No action may be commenced under this Policy against an Athlete or other Person for an anti-doping rule violation contained in this Policy unless such action is commenced within eight (8) years from the date the violation is asserted to have occurred.
Article 25  Reporting suspected anti-doping rule violations

25.1 Subject to Article 25.3, Athletes, Athlete Support Personnel, ASC employees and Board Members, contractors of the ASC and all other Persons who have agreed to be bound by this Policy must promptly report to the ASC Executive Director any suspected anti-doping rule violation under this Policy of which they become aware.

25.2 The obligation under this Article 25 to report a suspected anti-doping rule violation under this Policy prevails over any other applicable ASC policy to the extent of any inconsistency.

25.3 A Person is not required under this Article 25 to report any suspicion or disclose any information to the extent that to do so would breach a duty of confidentiality imposed on that Person by legislation.52

25.4 In reporting a suspected anti-doping rule violation, a Person must:
a. act in a discreet and confidential manner
b. not act in a frivolous or vexatious manner.

25.5 A report of a suspected anti-doping rule violation must:
a. be made directly to the ASC Executive Director
b. be initially made verbally and then later confirmed in writing
c. set out the reasons for the suspicion
d. not be disclosed to any other Person
e. in the case of any written communication, be marked as confidential.

25.6 After receiving a report (or otherwise becoming aware) of a suspected anti-doping rule violation under this Policy, the ASC Executive Director may seek the advice of relevant ASC personnel in discharging the ASC’s responsibilities in accordance with this Policy. In seeking and/or providing this advice, the ASC Executive Director and the other ASC personnel will act in a discreet and confidential manner.

25.7 After receiving a report (or otherwise becoming aware) of a suspected anti-doping rule violation under this Policy, and seeking any advice pursuant to Article 25.6, the ASC Executive Director will provide the report or information to ASADA. The ASC Executive Director may also seek the advice of ASADA in discharging the ASC’s responsibilities in accordance with this Policy.

52 This Policy recognises that certain Persons may from time to time owe a duty of confidentiality under legislation (for example, legislation imposing an obligation of confidentiality on members of a particular profession in certain circumstances). Guidance as to duties of confidentiality may be sought from ASC legal counsel.
Article 26  **ASC Code of Conduct**

26.1 ASC employees (and Board Members and contractors of the ASC who have agreed to be bound by the ASC Code of Conduct) must give due and proper consideration to their responsibilities under the ASC Code of Conduct.

26.2 The sanctions that may be applied under this Policy primarily focus on a Person’s involvement in or connection with, sport activities.

26.3 A Person who is investigated under this Policy may also be investigated under the ASC Code of Conduct, where that Person is also bound by the ASC Code of Conduct. Where a breach of the ASC Code of Conduct is identified, sanctions may be applied in addition to any sanctions under this Policy. The process used will be as outlined in the ASC Code of Conduct.

26.4 An investigation for an anti-doping rule violation may also serve as the investigation under the ASC Code of Conduct.

Article 27  **Interpretation of the Code**

27.1 The official text of the Code shall be maintained by WADA and shall be published in English and French. In the event of any conflict between the English and French versions, the English version shall prevail.

27.2 The comments annotating various provisions of the Code shall be used to interpret the Code.

27.3 The Code shall be interpreted as an independent and autonomous text and not by reference to the existing law or statutes of the Signatories or governments.

27.4 The headings used for the various parts and articles of the Code are for convenience only and shall not be deemed part of the substance of the Code or to affect in any way the language of the provisions to which they refer.

27.5 The Code shall not apply retrospectively to matters pending before the date the Code is accepted by a Signatory and implemented in its rules. However, pre-Code anti-doping rule violations would continue to count as “First violations” or “Second violations” for purposes of determining sanctions under Article 10 of the Code for subsequent post-Code violations.

27.6 The purpose, scope and organisation of the world anti-doping program, the Code and Appendix I — definitions shall be considered integral parts of the Code.
Article 28  Amendment and interpretation of this Policy

28.1 This Policy may be amended from time to time by the ASC, subject to ASADA approval. A copy of the amended Policy must be provided to ASADA.

28.2 This Policy has been adopted pursuant to the applicable provisions of the Code and shall be interpreted in a manner that is consistent with applicable provisions of the Code.

28.3 The comments annotating various provisions of this Policy shall be used to interpret this Policy.

28.4 Definitions of terms used in this Policy can be found in Appendix 1.

28.5 Words not defined in this Policy have the meaning ascribed to them in the Code unless a contrary meaning appears from the context.

28.6 Words in the singular include the plural and vice versa.

28.7 Another grammatical form of a defined word or expression has a corresponding meaning.

28.8 References to “including”, “for example” and similar words are not words of limitation.

28.9 A reference to an Article is to an Article of this Policy, unless specified otherwise.

28.10 Minor irregularities in the application of this Policy that cannot reasonably be considered to have affected the determination of an anti-doping rule violation will not affect such determination.
Appendix 1  Definitions

ACGA
The Australian Commonwealth Games Association Inc., the national body responsible for Commonwealth Games operations, publicity and development in Australia (an incorporated association and a non-profit organisation)

Adverse Analytical Finding
A report from a laboratory or other WADA-approved entity that, consistent with the International Standard for Laboratories and related technical documents, identifies in a Sample the presence of a Prohibited Substance or its Metabolites or Markers (including elevated quantities of endogenous substances), or evidence of the Use of a Prohibited Method

AGST Grant
The Australian Government Sport Training Grant, or a grant under another direct athlete support scheme as introduced from time to time

AGSTG Agreement
An agreement between the ASC and an AGSTG Recipient, under which the ASC agrees to provides an AGST Grant to the AGSTG Recipient

AGSTG Recipient
A Person who has accepted an offer to receive an AGST Grant from the ASC

AIS
The Australian Institute of Sport, a division of the ASC

AIS Athlete Scholarship Agreement
An agreement entered between the ASC and an AIS Scholarship Holder under which the ASC agrees to provide an AIS scholarship to the AIS Scholarship Holder

AIS Scholarship Holder
A Person who has accepted an offer of a scholarship under an AIS sports program

Anti-Doping Organisation
A Signatory that is responsible for adopting rules for initiating, implementing or enforcing any part of the Doping Control process; this includes, for example, the International Olympic Committee, the International Paralympic Committee, other Major Event Organisations that conduct Testing at their Events, WADA, IFs, and National Anti-Doping Organisations

AOC
The Australian Olympic Committee Inc., an incorporated association with responsibility for selecting, sending and funding Australian teams to the Olympic Summer and Winter Games

APC
The Australian Paralympic Committee Inc., the peak national body responsible for Australia’s elite Athletes with a disability at Summer and Winter Paralympic Games
ASADA
The Australian Sports Anti-Doping Authority, an Australian Government authority established under the ASADA Act 2006

ASADA Act 2006
The Australian Sports Anti-Doping Authority Act 2006 (Cwlth), as amended from time to time

ASADA Register
The register of findings maintained by ASADA under the ASADA Act 2006 and the NAD scheme

ASC
The Australian Sports Commission, an Australian Government body established under the Act, and includes the AIS and ASC

ASC Act
The Australian Sports Commission Act 1989 (Cwlth), as amended from time to time

ASC Code of Conduct
The Australian Sports Commission’s Code of Conduct, as amended from time to time

ASC Executive Director
The Person appointed by the ASC, pursuant to section 28 of the ASC Act, to manage the affairs of the ASC, or in his or her absence the Person acting in that position. Such Person may also be known as the “Chief Executive Officer” (CEO) of the ASC

ASDMAC
The Australian Sports Drug Medical Advisory Committee, Australia’s TUE Committee, established by the Australian Sports Drug Agency Act 1990 (Cwlth) and continued by the ASADA Act 2006

Athlete
Any Person who participates in sport at the international level (as defined by each IF), the national level (as defined by each National Anti-Doping Organisation, including but not limited to those Persons in its Registered Testing Pool), and any other competitor in sport who is otherwise subject to the jurisdiction of any Signatory or other sports organisation accepting the Code. All provisions of the Code, including, for example, Testing and TUEs, must be applied to international-level and national-level competitors. For the purposes of this Policy, ‘Athlete’ includes any participant in a sporting activity who is an AIS Scholarship Holder, an NTID Athlete or an AGSTG Recipient, and meets the definition of Athlete under the Code and/or the NAD scheme as in force from time to time

Athlete Support Personnel
Any coach, trainer, manager, agent, team staff, official, medical or para-medical personnel, parent or any other Person working with, treating or assisting an Athlete participating in or preparing for sports Competition
**Attempt**

Purposely engaging in conduct that constitutes a substantial step in a course of conduct planned to culminate in the commission of an anti-doping rule violation. Provided, however, there shall be no anti-doping rule violation based solely on an Attempt to commit a violation if the Person enunciates the Attempt prior to it being discovered by a third party not involved in the Attempt.

**Atypical Finding**

A report from a laboratory or other WADA-approved entity that requires further investigation as provided by the International Standard for Laboratories or related technical documents prior to the determination of an Adverse Analytical Finding.

**Board Member**

The members of the ASC, as defined in the ASC Act.

**CAS**

The Court of Arbitration for Sport (Oceania Registry).

**Code**

The World Anti-Doping Code adopted by the Foundation Board of WADA on 17 November 2007 at Madrid; or if the Code has been amended, the Code as so amended.

**Competition**

A single race, match, game or singular athletic contest; for example, a basketball game or the finals of the Olympic 100-metre race in athletics. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis, the distinction between a Competition and an Event will be as provided in the rules of the applicable International Federation.

**Consequences of Anti-Doping Rule Violations or Consequences**

An Athlete’s or other Person’s anti-doping rule violation may result in one or more of the following:

- **Disqualification**
  
  the Athlete’s results in a particular Competition or Event are invalidated, with all resulting consequences, including forfeiture of any medals, points and prizes

- **Ineligibility**
  
  the Athlete or other Person is barred for a specified period of time from participating in any Competition, or other activity or funding as provided in Article 19

- **Provisional Suspension**
  
  the Athlete or other Person is barred temporarily from participating in any Competition prior to the final decision at a hearing conducted under Article 17.

**Disqualification**

See Consequences of Anti-Doping Rules Violations above.
**Domestic Testing Pool**

The pool of Athletes established by ASADA who are not part of ASADA's Registered Testing Pool but who are subject to both In-Competition and Out-of-Competition Testing as part of ASADA's test distribution plan.

**Doping Control**

All steps and processes from test distribution planning through to ultimate disposition of any appeal including all steps and processes in between, such as provision of whereabouts information, Sample collection and handling, laboratory analysis, TUEs, results management and hearings.

**Event**

A series of individual Competitions conducted together under one ruling body (for example, the Olympic Games, FINA World Championships or Pan American Games).

**Event Period**

The time between the beginning and end of an Event, as established by the ruling body of the Event.

**Filing Failure**

A failure by an Athlete to file current and accurate whereabouts information in accordance with the rules of an IF and/or ASADA.

**IF**

An International Federation recognised by the International Olympic Committee or General Assembly of International Sports Federations (GAISF) as the entity responsible for governing that sport internationally.

**In-Competition**

Unless provided otherwise in the rules of an International Federation or other relevant Anti-Doping Organisation, the period commencing twelve (12) hours before a Competition in which the Athlete is scheduled to participate through to the end of such Competition and the Sample collection process related to such Competition.

**Individual Sport**

Any sport that is not a Team Sport.

**Ineligibility**

See Consequences of Anti-Doping Rules Violations on page 52.

**International Event**

An Event where the International Olympic Committee, the International Paralympic Committee, an IF, a Major Event Organisation or another international sport organisation is the ruling body for the Event or appoints the technical officials for the Event.

**International-Level Athlete**

Athletes designated by one or more IFs as being within the Registered Testing Pool for an IF.
**International Standard**

A standard adopted by WADA in support of the Code as updated from time to time. Compliance with an International Standard (as opposed to another alternative standard, practice or procedure) shall be sufficient to conclude that the procedures addressed by the International Standard were performed properly. International Standards shall include any technical documents issued pursuant to the International Standard.

**Major Event Organisations**

The continental associations of NOCs and other international multi-sport organisations that function as the ruling body for any continental, regional or other International Event.

**Marker**

A compound, group of compounds or biological parameter that indicates the Use of a Prohibited Substance or Prohibited Method.

**Member**

A Person who, or a body which, is a member of a Sporting Organisation; a Person who, or body which, is affiliated with a Sporting Organisation; or a Person who is a member of a body that is a member of or affiliated with a Sporting Organisation.

**Metabolite**

Any substance produced by a biotransformation process.

**Minor**

A natural Person who has not reached the age of majority as established by the applicable laws of his or her country of residence (in Australia, any natural Person under the age of 18 years).

**Missed Test**

A failure by an Athlete to be available for Testing on any given day at the location and time specified in the 60-minute timeslot identified in his or her whereabouts information for that day, in accordance with the rules of the applicable IF and/or ASADA.

**National Anti-Doping Organisation (NADO)**

The entity or entities designated by each country as possessing the primary authority and responsibility to adopt and implement anti-doping rules, direct the collection of Samples, the management of test results, and the conduct of hearings, all at the national level. This includes an entity that may be designated by multiple countries to serve as regional Anti-Doping Organisation for such countries. If this designation has not been made by the competent public authority, the entity shall be the country’s National Olympic Committee or its designee. In Australia, the NADO as designated by the Australian Government is ASADA.

**National Anti-Doping (NAD) scheme**

The NAD scheme as defined under the ASADA Act 2006, as amended from time to time.
National Event
A sporting Event involving international-level or national-level Athletes but is not an International Event

NOC
The National Olympic Committee, the organisation recognised by the International Olympic Committee. The term National Olympic Committee shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical National Olympic Committee responsibilities in the anti-doping area

No Fault or Negligence
An Athlete’s establishing that he or she did not know or suspect, and could not reasonably have known or suspected even with the exercise of utmost caution, that he or she had Used or been administered a Prohibited Substance or Prohibited Method

No Significant Fault or Negligence
An Athlete’s or other Person’s establishing that his or her fault or negligence, when viewed in the totality of the circumstances and taking into account the criteria for No Fault or Negligence, was not significant in relationship to the anti-doping rule violation

NPC
The National Paralympic Committee, the organisation recognised by the International Paralympic Committee. The term National Paralympic Committee shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical National Paralympic Committee responsibilities in the anti-doping area

NSO
The National Sporting Organisation, a national or regional entity that is a member of or is recognised by an IF as the entity governing that IF’s sport in that nation or region, or a body recognised by the ASC as a National Sporting Organisation and includes a National Sporting Organisation for people with a Disability

NTID Athlete
A Person who has accepted an offer of support from the ASC’s National Talent Identification and Development (NTID) Program

NTID Athlete Agreement
An agreement entered between the ASC and an NTID Athlete under which the ASC agrees to provide support from the ASC’s National Talent Identification and Development Program to the NTID Athlete

Out-of-Competition
Any Doping Control that is not In-Competition

Person
A natural Person, body corporate, organisation or other entity
Possession

The actual physical possession, or the constructive possession (which shall be found only if the Person has exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists) of a Prohibited Substance or Prohibited Method, provided, that if the Person does not have exclusive control over the Prohibited Substance or Prohibited Method or the premises in which a Prohibited Substance or Prohibited Method exists, constructive Possession shall only be found if the Person knew about the presence of the Prohibited Substance or Prohibited Method and intended to exercise control over it. Provided, however, there shall be no anti-doping rule violation based solely on Possession if, prior to receiving notification of any kind that the Person has committed an anti-doping rule violation, the Person has taken concrete action demonstrating that the Person never intended to have Possession and has renounced Possession by explicitly declaring it to an Anti-Doping Organisation. Notwithstanding anything to the contrary in this definition, the purchase (including by any electronic or other means) of a Prohibited Substance or Prohibited Method constitutes Possession by the Person who makes the purchase.

Prohibited List

The List identifying the Prohibited Substances and Prohibited Methods which is published and revised by WADA as described in Article 4.1 of the Code, as updated from time to time.

Prohibited Method

Any method so described on the Prohibited List

Prohibited Substance

Any substance so described on the Prohibited List

Provisional Hearing

For purposes of Article 16, an expedited abbreviated hearing occurring prior to a hearing under Article 17 that provides the Athlete with notice and an opportunity to be heard in either written or oral form.

Provisional Suspension

See Consequences of Anti-Doping Rule Violations above

Publicly Disclose or Publicly Report

To disseminate or distribute information to the general public or Persons beyond those Persons entitled to earlier notification in accordance with Article 14 of the Code.

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53 Under this definition, steroids found in an Athlete’s car would constitute a violation unless the Athlete establishes that someone else used the car; in that event, ASADA or the ASC must establish that, even though the Athlete did not have exclusive control over the car, the Athlete knew about the steroids and intended to have control over the steroids. Similarly, in the example of steroids found in a home medicine cabinet under the joint control of an Athlete and spouse, ASADA or the ASC must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids.
Registered Testing Pool

The pool of top level Athletes established separately by each IF and National Anti-Doping Organisation, who are subject to both In-Competition and Out-of-Competition Testing as part of that International Federation’s or National Anti-Doping Organisation’s test distribution plan. Each International Federation shall publish a list that identifies those Athletes included in its Registered Testing Pool either by name or by clearly defined, specific criteria.

Sample or Specimen

Any biological material collected for the purposes of Doping Control.

Signatories

Those entities signing the Code and agreeing to comply with the Code, including the International Olympic Committee, IFs, International Paralympic Committee, NOCs, NPCs, Major Event Organisations, National Anti-Doping Organisations and WADA.

SIS/SAS

An Australian State Institute of Sport or State Academy of Sport, being the state or territory institute or academy of sport, jointly or severally, as appropriate.

Specified Substances

Has the meaning given in Article 8.3.2.

Sporting Administration Body

Has the same meaning as in the ASADA Act 2006.

Sporting Organisation

Has the same meaning as in the ASADA Act 2006.

Substantial Assistance

For the purposes of Article 19.6.3, a Person providing Substantial Assistance must:

a. fully disclose in a signed, written statement all information that he or she possesses in relation to anti-doping rule violations;

b. fully cooperate with the investigation and adjudication of any case related to that information, including for example, presenting testimony at a hearing if requested to do so by ASADA, the ASC or a hearing panel.

Further, the information provided must be credible and must comprise an important part of any case that is initiated or, if no case is initiated, must have provided a sufficient basis on which a case could have been brought.

Tampering

 Altering for an improper purpose or in an improper way; bringing improper influence to bear; interfering improperly; obstructing, misleading or engaging in any fraudulent conduct to alter results or prevent normal procedures from occurring; or providing fraudulent information to an Anti-Doping Organisation.

54 It has sometimes been claimed that the collection of blood Samples violates the tenets of certain religious or cultural groups. It has been determined that there is no basis for any such claim.
Target Testing
Selection of Athletes for Testing where specific Athletes or groups of Athletes are selected on a non-random basis for Testing at a specified time

Team Sport
A sport in which the substitution of Athletes is permitted during a Competition

Testing
The parts of the Doping Control process involving test distribution planning, Sample collection, Sample handling and Sample transport to the laboratory

Trafficking
Selling, giving, transporting, sending, delivering or distributing a Prohibited Substance or Prohibited Method (either physically or by any electronic or other means) by an Athlete, Athlete Support Personnel or any other Person subject to the jurisdiction of an Anti-Doping Organisation to any third party; provided, however, this definition shall not include the actions of ‘bona fi de’ medical personnel involving a Prohibited Substance used for genuine and legal therapeutic purposes or other acceptable justification, and shall not include actions involving Prohibited Substances that are not prohibited in Out-of-Competition Testing unless the circumstances as a whole demonstrate such Prohibited Substances are not intended for genuine and legal therapeutic purposes

Tribunal
A body approved by ASADA which shall convene from time to time to hear allegations of anti-doping rule violations against Athletes, Athlete Support Personnel and other Persons in order to: determine whether an anti-doping rule violation has occurred; determine appropriate sanctions where an anti-doping rule violation is found to have been committed; and to hear appeals, except in the case where an appeal must be to the CAS. In the case of an appeal, and where the CAS is not being used for appeals, a new Tribunal will be convened, that is, no members of the Tribunal at the original hearing will hear the appeal

TUE
Therapeutic Use Exemption, granted in accordance with the International Standard for Therapeutic Use Exemptions

Use
The utilisation, application, ingestion, injection or consumption by any means whatsoever of any Prohibited Substance or Prohibited Method

WADA
The World Anti-Doping Agency

Whereabouts Failure
A Filing Failure or a Missed Test
Historical Document