

CCES Submission to International Standards Second Review Phase: International Standard for Results Management (ISRM)

In response to WADA's request for comments as part of Phase 2 of the International Standards review process, the CCES submitted the following comments with respect to the **International Standard for Results Management (ISRM)**.

General Comments to Part One

As a general comment, ensure the term "Vulnerable Person" is updated as per the approved definitions in the Code, as it currently proposes the term "Protected Person."

4.0 General Principles

4.1.2.3 Delegation by International Federation to National Anti-Doping Organization or National Federation

In Article 4.1.2.3, the notion of International Federations delegating results management to the NADO or National Federation continues to be problematic. CCES doesn't see it as appropriate that IFs can impose, simply by writing it in their rules, the requirement that a NADO or National Federation have to take over a case. National Federations do not typically have the capacity or understanding required to manage results cases and many NADOs (and RADOs) do not necessarily have the financial resources to take on cases resulting from testing that they did not conduct. The system could require a standing agreement between the NADO and IF which stipulates the circumstances when a NADO would take on a case, or an agreement would need to be made at the time for the NADO to take over the case. If the NADO did not agree, then the IF continues to be responsible for results management of the case. CCES does not believe it is appropriate for a National Federation to be involved in this process at all given the lack knowledge and capacity to properly manage the case.

4.1.2.8 WADA Designation

In Article 4.1.2.8, CCES suggests clarification as the wording is not clear: if this is a non-adverse case, is this Article saying that WADA can direct the NADO to push the case forward?

4.3 Public Disclosure

An incorrect reference is made in Article 4.3.1. Where it states "in accordance with Article 4.3.5," it should read "in accordance with Article 4.3.2."

5.0 First Results Management Phase

5.1.1 Initial Review

In Article 5.1.1, with respect to the wording “or will be granted,” there is no guidance regarding how long a NADO should reasonably wait to for the TUE to be granted. Perhaps a reasonable time frame should be identified.

5.1.2 Notification

In Article 5.1.2.6, the wording “any communication notified” and “notified by” is awkward. CCES recommends adjusting the wording in the article to: “Any notification provided to the Athlete under this Article 5.1.2 shall simultaneously be provided the Results Management Authority to the Athlete’s National Anti-Doping Organization(s), International Federation and WADA and shall promptly be reported into ADAMS.”

5.3.6 Notification under Article 5.3

Article 5.3.6.1 b) may be missing a portion of the sentence. Should it read similar to 5.3.6.1 c)? If so, it would read: “The relevant factual circumstances that the Results Management Authority considers demonstrate that the Athlete or other Person may have committed (an) anti-doping rule violation(s);”

In Article 5.3.6.2, the wording “the communication notified” and “notified by” is awkward. CCES recommends adjusting the wording in the article to: “The notification provided to the Athlete simultaneously be provided by the Results Management Authority to the Athlete’s National Anti-Doping Organization(s), International Federation and WADA and shall promptly be reported into ADAMS.”

The Comment to Article 5.3.6.2 has an incorrect reference to Article 5.1.2.6.

6.0 Provisional Suspensions

6.1.1

In principle, a Provisional Suspension means that an Athlete or other Person is barred temporarily from participating in any Competition or activity in accordance with Article 10.14.1 of the Code prior to the final decision at a hearing pursuant to Article 8.0.

Does the scope of the prohibitions during a Provisional Suspension match exactly the prohibitions during a sanction or is it only a prohibition under Code-compliant organizations? Does it apply in professional leagues? If this is the intent, it should be explicitly stated that the prohibitions during the provisional suspension match the prohibitions during a sanction.

6.1.2

Some language appears to be missing, or the language may be unclear, in Article 6.1.2, where the sentence ends with “respectively team selection.”

7.0 Charge

7.1

Article 7.1.d. should read “ten days”, rather than “20 days,” to be consistent with the draft of the Code, assuming that change to the related Code Article is approved.

In Article 7.1.g, CCES suggests rewording the phrase “obtain a suspension of Consequences” to “obtain a reduction of Consequences” for greater clarity.

7.3

In Article 7.3, the phrasing “notify it” seems awkward, and perhaps should be replaced by “notify the parties.” The sentence would then read: “...the Results Management Authority shall promptly issue the decision and notify the parties in accordance with Article 9.0.”

8.0 Hearing Process

General Comments to Section 8

The wording throughout Article 8.0 leaves the impression that a hearing panel must include more than one person. CCES recommends the section be written such that a hearing panel can consist of a single panel member or multiple panel members.

8.1

In Article 8.1, change “subject to its anti-doping rule” to “subject to its anti-doping rules.”

8.2

The comment to 8.2 provides for panels of different sizes but it’s not particularly clear that this means a sole-arbitrator is appropriate.

8.5

If WADA wishes to guarantee the independent operation of hearing panels, as noted in Article 8.5, ensure they are listed as being “fair, impartial and independent” under the Code in Article 8.1. A hearing, as described in Code Article 8.1, only involves a “fair and impartial hearing panel,” with no mention of an independent hearing panel.