

Summary of Major Changes Proposed to Second Draft of 2021 World Anti-Doping Code

This is the final round of review for the Code and International Standards and it is unlikely that there will be further substantive changes at this stage of the consultation process. The majority of changes to come, if any, will likely focus on refining the changes outlined in the current drafts. These are some of the changes the CCES wants to highlight for the sport community:

Obligation of Individual Signatory Participants to Agree to Be Bound by the Code (Introduction and Article 20)

- The general requirement is that officers and directors as well as certain employees and volunteers of Signatories (which includes organizations that have adopted the CADP) shall be subject to the Code. This does not mean that they will be tested, rather that they will agree not to commit intentional anti-doping rule violations under the Code, such as tampering, trafficking, administration, complicity, prohibited association and retaliation.

Prohibited Association (Article 2.10)

- This Article prohibits association in a sport-related capacity with an athlete support person who is serving a period of ineligibility. The previous requirement to notify an athlete that they are possibly in violation of this rule before an anti-doping rule violation can be pursued will be removed. Athletes and athlete support personnel need to be more mindful of the rules and have an obligation to track who has a “disqualifying status.” The CCES maintains an up-to-date online Sanctions Registry.

Substances of Abuse (Article 10.2.4)

- Sanctions for street and recreational drugs remain a significant problem under the Code. This new article proposes identifying those substances on the Prohibited List that are often abused outside of sport as “Substances of Abuse.” The athlete must establish that the use occurred out-of-competition and was unrelated to sport performance. (Otherwise, the normal sanctioning scheme applies.) The period of ineligibility would be three months, with the possibility of further reduction to one month by completing a rehabilitation program.

Voluntary Provisional Suspensions (Article 7.4.4)

- A voluntary provisional suspension must be accepted within 10 days from the date of the assertion.

Aggravating Circumstances (Article 10.7)

- The Aggravating Circumstances Article was deleted when the 2015 Code increased the period of ineligibility for intentional doping from two to four years. The 2021 Code reintroduced the Aggravating Circumstances article. This means that up to two additional years of sanction time may be added, but only for certain violations (excluding 2.7, 2.8, 2.9 and 2.11). The excluded

violations already include the discretion to allow an evaluation of aggravating circumstances.

New Athlete Category: Recreational Athletes

- This category is to include lower level athletes who are still subject to the CADP. At a minimum, the new category of athletes will consist of individuals who have not been a national or international-level athlete in the last five years; have not represented any country in an international event; and have not been included in a Registered Testing Pool.
- This addition allows for greater flexibility with sanctioning and public disclosure in the event of an anti-doping rule violation.

New definition for young athletes - now called “Protected Persons”

- A “Protected Person” is defined as an athlete who is not yet 16 years old in every case; an athlete who is not yet 18 years old and is not in a Registered Testing Pool and has not competed at an international event; an athlete who has been determined to lack legal capacity by reason other than age.
- This addition allows for greater flexibility with sanctioning and public disclosure in the event of an anti-doping rule violation.

Substantial Assistance (10.7.1.1)

- A reduction in sanction may now be provided for substantial assistance related to establishing non-compliance with the Code, the International Standards or other types of sport integrity violations. This is a broader scope than previously existed, which was limited to discovering new anti-doping violations.
- It is now possible in some situations to provide substantial assistance on a “without prejudice” basis.

Results management Agreements (10.8)

- The notions of “prompt” and “timely” admissions have been replaced with “result management agreements,” whereby a sanction reduction is possible in eligible cases when the athlete admits the anti-doping rule violation or agrees to the consequences. In Article 10.8.1, there is an **automatic** one-year reduction in sanction if the asserted Article 10.2.1 violation (with a potential four-year sanction) is admitted by the athlete no later than 10 days after the assertion. There will be no hearing. A three-year sanction will be imposed and the case will end. No other method of reducing a sanction will be allowed. In addition, pursuant to Article 10.8.2, for all other asserted violations there can be (i) further and additional sanction reductions possible (with a cap on the total reduction possible) if the athlete first admits the violation and agrees to standard consequences acceptable to the CCES and WADA and (ii) an earlier start date to the sanction period. The intended goal of the new sanctioning system is to encourage the resolution of asserted violations **without a hearing** with the athlete receiving effectively shorter sanctions as a result.

Potential Consequences for Non-Compliance by Signatories

- The consequences previously outlined in the International Standard for Code Compliance by Signatories have been moved into the Code itself.