



I Tested Positive?
How to Respond to a Possible Anti-doping Violation
Quick Reference Guide

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This document summarizes: "*I Tested Positive? How to Respond to a Possible Anti-Doping Violation*". Readers are encouraged to consult that document and the CADP.

The following article is designed to assist athletes understand the series of events that generally occur when an alleged anti-doping violation has occurred and the options available.

The Program Managers at the Sport Solution are available to confidentially discuss any anti-doping question or violation, at any time. Preparation is the key to a strong case.

Part I: Alleged Violation:

A) Preliminary Review (after an adverse analytical finding):

- CCES will see if there is a TUE (Therapeutic Use Exemption) or medical review
- CCES will see if there was a procedural flaw in the lab analysis
- CCES will give the athlete the opportunity to provide an explanation

Once this initial review is completed, CCES will decide whether or not to issue formal notice claiming that a violation has occurred (Rule 7.66)

B) Athlete Notification (Pre-Hearing):

- CCES will provide formal notice to the athlete
- Athlete must respond to this notice. Ignoring this notice can have serious consequences
- Parties Involved:
 - Athlete, CCES, NSO
 - Entitled to observe: International Federation, Government of Canada, WADA

C) Possible Athlete Responses to Formal Notice:

- Cooperation: athletes should fully cooperate with the CCES investigation
 - Note: any information provided by the athletes can be used in the hearing
- "B" Sample: a time period exists whereby athletes can request this sample to be tested
- Accept violation and waive hearing: suspension starts immediately.
- Voluntarily Admit: if the athlete promptly admits an anti-doping violation, the suspension can start earlier. The athlete retains the right to a hearing.
 - It is advised to consult independent legal advice before voluntary admission
- Voluntary Suspension: if the athlete accepts a voluntary provisional suspension, thus being barred temporarily from competition prior to a final decision at a hearing, the period will be credited toward the ultimate decision

- Contesting a Claim:
 - Retain a lawyer to assist in the hearing process
 - Understand the CADP rules alleged to be violated
 - Gather all information and documents related to violation, including lab documentation

Part II: Challenging an Alleged Violation:

If the athlete chooses to challenge an alleged violation he or she needs to establish why the Sample came back positive and/or if procedures were followed properly. There are two key points:

- 1) Were the procedures required by the Doping Control Rules in the CADP followed by CCES?
- 2) If not, were the deviations from the procedures the cause of the positive test result?

Rules that Apply:

- CCES Jurisdiction: CCES only has jurisdiction where the CADP applies
- Testing Pool: different testing pools set out different obligations, (i.e. RTP, DTP)
- Notification and Supervision: CCES must follow rules 6.30-6.39.
- Sample Collection: the rules for the sample collection session are 6.40-6.62.
 - Actual sample collection procedures are provided under Annexes 6C-6F.
 - Disability Adjustments: the sample collection procedure is modified by Annex 6B.
- Storing, Location, Transport, and Custody: must follow rules 6.65-6.78.
- Departure from Doping Control Rules: deviations that did not cause the adverse analytical finding will not eliminate the doping infraction.
 - If successful in showing that a departure from the rules could have reasonably caused the adverse analytical finding, then CCES has the burden of proving that it did NOT.

Part III Was a Lab Rule Broken?

CCES uses a WADA-accredited lab. The CADP presumes that the lab rules will be followed properly. If the athlete wishes to dispute the presumption he or she must provide specific evidence proving otherwise.

Part IV: Hearing Preparation – Things to Know:

Two issues can be contested at a hearing: 1) facts of the alleged violation, 2) the proposed sanction

A) Therapeutic Use Exceptions (TUEs) and Medical Reviews:

- Elite Athletes (Rule 5.2) must obtain a TUE prior to the use of a prohibited substance
- If a TUE has been granted then the anti-doping violation will be eliminated.

- Medical emergencies or exceptional circumstances could result in retroactive TUE approval.
- All other athletes can undergo a medical review process if there is an Adverse Analytical Finding (it will be granted if the conditions set out in rule 5.5 are met).

B) Strict Liability:

- The mere presence of a prohibited substance in a bodily sample is an anti-doping violation.
- This ruling is firm regardless of intent, fault, carelessness...etc. Excuses are not of substance.
- Minor exceptions:
 - Substances with a minimum quantity threshold and the athlete is below it
 - Substances that can be produced naturally by the body.

C) Specified Substances:

- Consumption of “specified substances” may lead to an unintentional anti-doping violation
 - These substances can be found in common medicinal products
- If the athlete is able to show that the use of the substance was not intended to enhance performance then the sanction can be reduced or even eliminated.
- Elements to prove that can reduce or eliminate the sanction:
 - 1) How the substance entered the body
 - 2) Intention of consuming the substance,
 - 3) Supplementary evidence to support the case
- Ultimately, CCES will decide the athlete’s “degree of fault” and make a decision

D) Exceptional Circumstances – Four Opportunities to Reduce (Not Eliminate) a Sanction:

- 1) No Fault: the athlete must prove that he or she did not know, and could not have known even with the most caution, that he or she had used the prohibited substance
 - Difficult test to satisfy, but doing so will eliminate the sanction entirely
- 2) No Significant Fault: the athlete must prove that his or her fault was not significant in relationship to the violation when considering all of the circumstances
 - The athlete must prove that other factors and circumstances played a significant role in causing the violation, which can reduce the sanction by half
- 3) Assisting CCES Discover Anti-Doping Violations in other Athletes:
 - If an athlete substantially assists CCES confirm a violation in another athlete, the sanction against the athlete can be reduced
- 4) Admitting Violation in Absence of Other Evidence:
 - If an athlete voluntarily admits to breaking an anti-doping rule before receiving a sample collection notice, the sanction can be reduced by half

E) Aggravated Circumstances which can Increase the Sanction Period:

- The athlete may be faced with an increased sanction due to aggravated circumstances.

- This increased penalty can usually be avoided if the athlete admits the violation promptly after being confronted by CCES

F) Burden of Proof:

- At a hearing, CCES has the burden of proving to a tribunal that an anti-doping violation occurred
- However, sometimes the burden is on the athlete. Such is the case in “Exceptional circumstances” scenarios.

Part V: Conduct of the Hearing

- Hearing procedures are set out in detail in the CADP and SDRCC Code
- At a hearing there will be a single arbitrator who will determine whether there was an anti-doping rule violation and subsequently administer the consequences.
- The athlete must present evidence to prove a certain fact, and should be aware of the different types of evidence and strategies to consider when preparing for a hearing

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