

A SPORT ADMINISTRATOR'S  
GUIDE TO

# ANTI-DOPING RULE VIOLATION ASSERTIONS



The purpose of this document is to clarify the roles and responsibilities of sport administrators when a member of their organization is accused of an anti-doping rule violation (ADRV). Fortunately for most administrators, doping cases in their sport are few and far between. This, however, means that most of them will have limited experience when it comes to dealing with an asserted ADRV against a member of their organization. This document aims to provide some guidance to sport administrators in those rare but complex situations.

## WHO'S WHO IN ANTI-DOPING

### **Canadian Centre for Ethics in Sport (CCES):**

The CCES is Canada's anti-doping organization, responsible for administering and enforcing the Canadian Anti-Doping Program (CADP). Where applicable, it asserts ADRVs against Canadian athletes and other persons.

### **Sport Dispute Resolution Centre of Canada (SDRCC):**

The SDRCC is the independent tribunal designated in the CADP to hold doping hearings and appeals in Canada.

### **World Anti-Doping Agency (WADA):**

WADA is the international organization leading a collaborative movement for doping-free sport. It publishes the *World Anti-Doping Code* along with International Standards that govern the anti-doping efforts worldwide. WADA can appeal a doping decision of the SDRCC to the Court of Arbitration for Sport (CAS).

### **International Federations (IFs):**

IFs have the authority to manage anti-doping testing and results for international-level athletes. If a Canadian athlete is asserted to have committed an ADRV by an IF, the doping hearing responsibility lies with that IF. Some IFs will delegate that responsibility to the Sport Organization (SO) of the person accused, in which case the SO can contact the CCES for assistance. IF doping decisions can only be appealed to the Court of Arbitration for Sport (CAS). IFs can also appeal a doping decision of the SDRCC to the Court of Arbitration for Sport (CAS).

# PART 1

## PREPARING FOR AN EVENTUAL ADRV ASSERTION

Sport organizations can prepare to respond in case of an ADRV by establishing an **internal anti-doping procedure** in advance. Such procedure could include how information will be communicated in dealing with an ADRV assertion against a member, the type of support to be offered to the member against whom the ADRV is asserted, as well as a detailed communication plan.

### GATHERING INFORMATION AND RESOURCES

It is advisable to create a collection of useful resources that are centralized and quickly accessible to the person designated in a given sport organization to be the point of contact for the CCES or the IF, in the event that one of its members were to be accused of an ADRV. Rules may change over time and it is therefore crucial to always have the most up-to-date and current set of rules and regulations. The collection of resources should minimally point to where the following documents can be found:

- The World Anti-Doping Code and its International Standards;
- The relevant IF anti-doping rules;
- The CADP.

### ASSESSING THE IMPACT OF THE ASSERTION, PROVISIONAL SUSPENSION OR POTENTIAL SANCTION

There are several ways in which a provisional suspension may be applied:

1. The CCES imposed a provisional suspension on the member;
2. The member voluntarily accepted a provisional suspension; or
3. The relevant IF rules mandate that a provisional suspension be imposed.

Whether or not the member is provisionally suspended, there are some important considerations for the sport organization to understand:

- **When an athlete is provisionally suspended**, that athlete is precluded from competing and training in a sanctioned sport environment until a final determination on the ADRV is reached. The athlete who is provisionally suspended by the CCES or by the relevant IF has a right to request a provisional hearing, which is only intended to determine whether such provisional suspension should be maintained while the ADRV is being adjudicated.
- **When the athlete continues to compete** while the ADRV is being adjudicated (which is permitted in the absence of a provisional suspension): if the ADRV is eventually confirmed, all of the athlete's competition results, from the date of the sample collection until the final determination of the case may be annulled, unless fairness dictates otherwise. In light of upcoming important competitions, it is important to be mindful of the potential impact of such possible retroactive disqualifications of results on other athletes or on its sport programs more generally. Among possible aspects impacted are opportunities: to qualify for advancement to other competitions, to qualify for funding, to earn bursaries or prizes; to alter team or individual rankings or team selections, etc.

Dealing with these situations on an ad hoc basis could cause disputes pertaining to qualifications, rankings, selections, funding and other forms of recognition. Sport organization's rules, policies and regulations governing these questions may, for example, contain exceptional circumstances clauses that address how provisional suspensions or annulment of competition results will be handled.



### OTHER USEFUL RESOURCES

- Canadian Sport Dispute Resolution Code
- CCES website and staff
- SDRCC publications and staff
- AthletesCAN's *I Tested Positive* publication
- SDRCC Pro Bono or Anti-Doping Legal Aid programs

## ASSISTING THE MEMBER ACCUSED OF AN ADRV

The anti-doping rules put a heavy burden of proof on the member against whom an ADRV is asserted. However, the presumption of innocence should prevail in the way this member is being treated by the sport organization. ADRVs are not always the result of a planned and conscious intent to cheat. ADRVs can be caused by ignorance of the rules, inadvertent use of banned substances for justified medical purposes, negligence in the choice of dietary supplements, or even unintentional exposure to a banned substance, among others. In addition, due process should be afforded to all members no matter the nature or circumstances of the asserted ADRV.

As much as the occurrence is rare for sport administrators to have to deal with ADRV assertions, it is even less common for individual members against whom these assertions are brought. It is not typically the sport organization's role to defend the member accused. However, the sport organization may share information that could be useful for the member in preparing to defend against the allegations. The internal anti-doping procedure should address the various circumstances and ways in which the sport organization is willing to assist members in dealing with such situation.

The section "Navigating through an ADRV Assertion" below outlines the various steps to be followed from the time the CCES initiates a review of a possible ADRV until a final determination is made on the matter. This information can provide insight into how the sport organization can assist its member during the anti-doping hearing process, if applicable.

**Note:** *The present publication does not provide information on the results management or hearing process to be followed if the ADRV is asserted by the IF. Where applicable, more information should be sought from the concerned IF directly.*

## DESIGNING A COMMUNICATION PLAN

An essential component of an internal anti-doping procedure is its communication plan which aims at controlling, at every step of the process, what is communicated to whom and how. It can be divided into two components:

**1. The internal communication plan** determines who within the sport organization will be advised of the existence of an ADRV assertion against a member. It also addresses the level of detail about the ADRV assertion that will be shared with various people and what role each will play in its management, making sure the rules around confidentiality are clear for all. The key principle to apply in this situation is that each person in the organization must not know more than needed in order to carry out his/her normal duties within the organization. An assessment is therefore required to determine:

- **Who** needs to know **what** (e.g. the person cancelling flights does not need to know "why"; Board members may know that an ADRV is asserted without knowing the name of the person in question);
- If the member is provisionally suspended, **how** the immediate entourage of this member will be informed and **what** level of detail is necessary to share with each person. While coaches, sport club administrators, or college/university athletic departments come to mind, this may potentially extend to teammates or training partners in certain sports.

Controlling the message on a need-to-know basis will help prevent further damages from the rumour mill. At this stage, each member of the organization who has partial or full knowledge of what is happening needs to:

- Understand how to respond if questioned about the situation by people who are not supposed to know;
- Be reminded of his/her duty of confidentiality and the potential consequences of any eventual breach (e.g. termination of employment in the case of hired staff).

**2. The external communication plan** defines who in the organization is authorized to speak about the ADRV assertion or the end-result of a doping hearing/appeal with individuals outside of the sport organization. These may

include, among others:

- The media;
- Other members of the sport organization;
- Sponsors; or
- The general public.

The sport organization should be prepared to launch its external communication plan **at any moment**. It has indeed happened before that the member accused decided to go public before a final determination was made on the case, or that a confidentiality breach occurred, forcing an early disclosure. A press release can be issued in due time, alone or jointly with the CCES.

The external communication strategy is an excellent opportunity to:

1. Reinforce the sport organization's commitment to doping-free sport; and
2. Remind/educate its other members about their responsibility to keep their sport clean.

If the member who was accused of an ADRV is ultimately suspended, it may also provide an opportunity to remind

all members of the organization and of affiliate clubs about the "association" violation. This would help reduce the chances that other members will violate anti-doping rules by associating with a person under suspension (see section entitled "Enforcing the Sanction" below for more information on this topic).

The external communication plan can also extend support to other members in different forms. For example, it could offer them the opportunity to:

- Ask questions or voice concerns regarding the ADRV;
- Know how the ADRV or the sanction impacts them; or
- Come forward if they have information to be shared regarding other potential doping activity in their sport.



### ELEMENTS OF A STRONG COMMUNICATION PLAN

- Know your target audience, and what means of communication will be used
- Know at what time certain information will be disclosed
- Ensure that everything you say/write is factual

## PART 2

## NAVIGATING THROUGH AN ADRV ASSERTION

### SUPPORT FOR THE MEMBER

As signatories of the CADP, sport organizations have a dual role:

1. Upholding anti-doping efforts and their commitments to the CADP; and
2. Continuing to support their members, even while provisionally suspended.

Members may not all have a support system capable of assisting them in this difficult and stressful time in their sport career. Despite possible disappointment or anger at the situation, the sport organization's leaders can ensure that the member does not go through the process alone, that the member is not cast aside, and that communication channels remain open.

There are formal ways in which the occurrence of an ADRV can be established or a sanction imposed. It is therefore not for the sport organization to jump to any conclusions before one of the following situations arises: the admission by the person accused, the waiver by the person accused of his/her right to a hearing, the failure of the person accused to engage in the ADRV adjudication process (deemed waiver), or through an SDRCC or CAS arbitral award.

## INITIAL REVIEW

Where evidence points to a likely ADRV, the CCES will first contact the relevant sport organization (SO) or multisport organization. The sport organization is then responsible for communicating this highly sensitive and confidential information to the concerned individual. Disclosure must therefore be limited to people who absolutely need to know, such as a parent or legal guardian in the case of minor athletes. At this stage, although no ADRV assertion has taken place, the news is likely to be shocking to the member. It is important to emphasize the seriousness of the matter and encourage the individual to seek representation, ideally a known and trusted legal representative.

**Note:** Where the assertion pertains to Rule 2.1 (Presence), the member will have a specified amount of time from the date of the initial review to request to have the 'B sample' analyzed to confirm or contradict the analysis result of the 'A sample'. In the initial review, additional information may be sought by the CCES: for example, in the event the use or presence of the substance in the athlete's sample can be explained by a medical treatment for which a valid therapeutic use exemption may apply; or if there were deficiencies in the sample collection process that affected the integrity of the sample.

## LEGAL ASSISTANCE AND REPRESENTATION

- Legal assistance is available for athletes through Sport Solution → (see <https://athletescan.com/en/athlete-zone/programs/sport-solution>).
- Athletes and other members also have access to the SDRCC list of legal representatives, including its Pro Bono Program → (see <http://www.crdsc-sdrcc.ca/eng/dispute-resource-legal>).
- Athletes and other members facing a four-year suspension may access the SDRCC Anti-Doping Legal Aid program for the first 20 days following the CCES notification.

## NOTICE OF CHARGE LETTER

If, following the initial review, the CCES believes that the person has likely committed an ADRV, a notification confirming the assertion will be sent by email to the following parties: the relevant SO, the concerned member (if contact information is known), the SDRCC, WADA, the relevant IF(s), and the

Government of Canada. The Notice of Charge Letter will contain the details of the alleged violation, the various options available to the member, and the proposed sanction.

If the person does not have any assistance, legal or otherwise, it is recommended that someone from the sport organization follows up to ensure that the member has received the information, understands the situation and has an opportunity to ask questions on next steps. Sport organization representatives may be in a good position to reach out to the member and discuss the implications of each option on the member, for example:

- The potential loss of government financial assistance;
- The prospects for a return after a suspension;
- The application of sanctions in parallel competition structures (such as professional, semi-professional or NCAA).

The CCES is also a reliable resource to assist in clarifying consequences, while the SDRCC staff can be available to explain the procedural steps ahead and the services offered by the tribunal.

**Note:** Typically, the member will have the following options, which are not mutually exclusive:

1. Make an admission;
2. Accept a voluntary provisional suspension, if not already imposed;
3. Waive his/her right to a hearing and accept the proposed sanction and related consequences;
4. Request a hearing to determine the ADRV and/or the consequences;
5. Enter into a Case Resolution Agreement.

Failure to engage in the process for a period of 20 days will cause the member to be deemed to have admitted the violation, waived his/her right to a hearing and accepted the sanction proposed by the CCES.

## SDRCC SERVICES AND PROCESS

**The Information Letter:** Upon receipt of the Notice of Charge Letter from the CCES, the SDRCC will issue an *Information Letter* to the member against whom the ADRV is asserted. Such letter will invite the member to take part in an *Administrative Meeting* by conference call and will

## BRIEF OVERVIEW OF SOME OPTIONS

Results Management Agreements		
Early Admission (Art. 10.8.1 CADP)	Case Resolution Agreement (Art. 10.8.2 CADP)	Voluntary Provisional Suspension (Art. 7.4.4 CADP)
<ul style="list-style-type: none"> <li>An early admission by the member allows for a one-year reduction in the sanction when the ADRV asserted carries a suspension of 4 or more years.</li> <li>The member who makes an early admission must do so within 20 days of the notice of charge.</li> </ul>	<ul style="list-style-type: none"> <li>By entering into a case resolution agreement, the member must admit the ADRV and agree to consequences determined at the sole discretion of the CCES and WADA.</li> <li>The member may then receive a reduction in sanction, which may start as early as the sample collection date or the date on which another ADRV last occurred, if applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Accepting a voluntary provisional suspension ensures that the sanction, if one is imposed later, will begin from the date of voluntary acceptance.</li> <li>However, the terms of the provisional suspension must be respected at all times; this means not competing and not training in a sport environment sanctioned by a signatory of the CADP or the World Anti-Doping Code.</li> </ul>

advise the member of his/her right to representation, pointing to SDRCC and other relevant resources. If the member has already decided to waive his/her right to a hearing or request a doping hearing, instructions to that effect will be provided in the *Information Letter*.

**The Administrative Meeting:** Attendees may include the CCES, the member and his/her authorized representative(s), and the SO representative(s).

- Such meeting rarely exceeds 20 minutes, unless parties ask a lot of questions.
- The SDRCC staff will explain the SDRCC administrative process (language of proceedings, communication protocol, urgency, next steps) and invite the member to take advantage of the Resolution Facilitation (RF) process for doping cases.
- If the member is inclined to take part, a date and time will be set for the RF session to take place, also by conference call.

It is recommended that the concerned sport organization's representatives attend the *Administrative Meeting*, especially if they have limited experience in dealing with an ADRV assertion.

**The Resolution Facilitation Session:** Attendees may include the CCES, the member and his/her authorized representative(s), and the SO representative(s).

- In this session, which usually lasts about one (1) hour, the SDRCC Resolution Facilitator will conduct a confidential

discussion, without prejudice, to enable the exchange of information between the CCES and the member.

- The purpose is to ensure that the member better understands the rules applicable to the alleged ADRV, the standards and burdens of proof, and the way in which the CCES assessed the proposed sanction.
- The member will likely gain valuable information during the session to enable a more informed decision on all the options still available (e.g. admissions, voluntary suspension, waiving or requesting a hearing, etc.)

It is recommended that the concerned sport organization's representative(s) attend the *Resolution Facilitation Session*. The information gained from listening to the discussions can be valuable with regards to learning the circumstances of the asserted ADRV and the potential need for better doping prevention and education for its members.

**The Preliminary Meeting:** If the member requests a doping hearing, the appointed arbitrator will convene all parties to a *Preliminary Meeting*.

- This meeting serves, among other things, to establish a procedural calendar, including deadlines for parties' submissions, and to discuss the date, time and format of the hearing.
- The meeting usually lasts between 30 and 60 minutes, depending on the complexity of the procedural issues raised by the parties.

## OVERVIEW OF POSSIBLE LEVELS OF INVOLVEMENT OF SPORT ORGANIZATION'S REPRESENTATIVES

Level of Involvement	Potential Implications
<b>Not participating in the hearing process</b>	If completely absent from the process, the sport organization's representatives may be unable to respond to evidence or arguments put forth by the member. For example, it has been alleged by persons accused in the past that their sport organization: did not meet its obligations in the CADP; did not provide suitable anti-doping education; provided erroneous information about the filing of whereabouts information; or recommended the use of certain dietary supplements which turned out to be contaminated. Not taking part in the hearing process can prevent the sport organization to rebut any false allegations.
<b>Observing the proceedings</b>	Being present allows sport organization's representatives to familiarize themselves with the process and review evidence and submissions made by other parties. Sport organizations can also maintain their right to intervene, if necessary, in response to other parties' false or damaging statements about the organization.
<b>Actively participating in the proceedings</b>	Sport organizations can elect to take an active role in providing evidence and making submissions, whether it be favorable to the CCES' position or the member's position. The role of all parties is to ensure that the arbitrator has all the relevant facts to render a fair and equitable decision.

**The Hearing:** The *Hearing* is the opportunity for all parties to present all the relevant facts and arguments to the appointed arbitrator for a final determination on the violation and/or on the applicable sanction. *The Guide to SDRCC Proceedings* is available on the SDRCC website; it provides guidance on various steps in preparation for the hearing, including information on how to prepare submissions and what to expect during the hearing → (<http://www.crdsc-sdrcc.ca/eng/guide-to-proceedings>). Sport organization's representatives are not always active participants in doping hearings. A wide range of levels of involvement can be adopted depending on the circumstances of each case (see table above for examples).

**The Arbitrator's Short Decision:** Unless otherwise agreed by the parties, the SDRCC arbitrator will render a short decision within five (5) days of the end of the hearing. The short decision will state, among other things, whether the member has committed an ADRV and, if so, what is the sanction to be imposed (including its start date). If the member was not already under the effect of a provisional suspension, any sanction ordered takes effect immediately. The sport organization's responsibility in monitoring and enforcing the sanction begins at the same time.

**The Arbitrator's Reasoned Decision:** Unless otherwise agreed by the parties, the SDRCC arbitrator will render a reasoned decision within 20 days of the end of the hearing. The 30-day time limit to appeal the SDRCC arbitrator's decision starts running on the day that the reasoned decision is made available to the parties.

### PART 3 MOVING FORWARD AFTER AN ADRV

#### PUBLIC DISCLOSURE

In the absence of a publication ban, the *Arbitrator's Reasoned Decision* will be translated and published on the SDRCC website. This will be done at a date that coincides with the public disclosure of the ADRV to be made by the CCES, which is usually within 20 days of the reasoned decision. Unless the member is a minor, the CCES communiqué will typically include the name of the member, the type of violation and/or substance or method used, the sanction and/or consequences.

Sport organizations can also coordinate with the CCES to make a public statement on the ADRV at the same time, either in a joint media release or separately. This is when the external communication plan discussed earlier in the present document is implemented.

**Important:** It is recommended to consult with the CCES prior to making any public disclosure of a doping decision, since some restrictions may apply to certain specific situations. Exceptions exist in cases where the member is successful at contesting the violation, or when the member is a minor.

## ENFORCING THE SANCTION

Once the final determination is made on the ADRV assertion and the sanction to be imposed is publicly known, sport organizations have a responsibility to make sure the sanction is respected and enforced. Such responsibility is shared with all other stakeholders in the sport community. A person under suspension for an ADRV is precluded from **participating, competing, training, practicing, working or volunteering** in any activity that is authorized, sanctioned or funded by any signatory, or affiliated member to a signatory of the World Anti-Doping Code anywhere in the world. The list of signatories can be found on WADA's website: → <https://www.wada-ama.org/en/what-we-do/the-code/code-signatories>.

This means that sports-related event organizers have to put in place a proper screening process to ensure that all participants (whether athletes, coaches, officials, volunteers, or others) are eligible. The purpose is to prevent ineligible persons from acting in a prohibited capacity while under a doping suspension. This is true even if the ADRV in question occurred in another sport or in another country that has adopted similar anti-doping rules to the CADP or rules that are fully compliant with the World Anti-Doping Code. Any known or suspected breach of a doping sanction should be reported to the CCES.

## REMINDER! PROHIBITED ASSOCIATION IS ALSO A VIOLATION

*Prohibited association* is the association of an athlete or person subject to the authority of a signatory of the World Anti-Doping Code or its affiliate members, in a professional or a sports-related capacity, with a person serving a suspension for an ADRV. For example, athletes would be prohibited from being treated by a physiotherapist or athletic trainer suspended for an ADRV.

The CCES remains the best resource to access the relevant information about:

1. Persons who are currently under suspension;
2. What a person can or cannot do while under a doping suspension; or
3. Reinstatement conditions.

## DEBRIEF EACH CASE AND DRAW LESSONS LEARNED

The lessons learned from cases provide to the sport organizations a unique opportunity to reinforce their stance on clean sport. It is also an opportunity to remind their members to familiarize themselves with the CADP, the World Anti-Doping Code and the Prohibited List, and to promote the doping prevention resources of the CCES.

It is also a good occasion to reflect on how the organization managed the situation. If necessary, its anti-doping procedure should be reviewed and improved and the expertise gained from that case should be shared with colleagues and successors in the sport organization. A good debrief on the ADRV itself, and of the circumstances surrounding it, can also inform the sport organization's doping prevention efforts to avoid further ADRVs of similar nature.



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