



FÉDÉRATION  
INTERNATIONALE  
DE NATATION

# FINA DOPING CONTROL RULES

*Approved by the FINA Congress on 29 November 2014*

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## INTRODUCTION

These Anti-Doping Rules are adopted and implemented in accordance with FINA's responsibilities under the *Code*, and in furtherance of FINA's continuing efforts to eradicate doping in the aquatic sports.

These Anti-Doping Rules are sport rules governing the conditions under which sport is played, aimed at enforcing anti-doping principles in a global and harmonized manner, they are distinct in nature from criminal and civil proceedings, and are not intended to be subject to or limited by any national requirements and legal standards applicable to such proceedings. When reviewing the facts and the law of a given case, all courts, arbitral tribunals and other adjudicating bodies should be aware of and respect the distinct nature of these Anti-Doping Rules implementing the *Code* and the fact that these rules represent the consensus of a broad spectrum of stakeholders around the world as to what is necessary to protect and ensure fair sport. For ease of reference, terms that are defined in Appendix 1 of these Anti-Doping Rules are capitalised and italicised in the text.

### Fundamental Rationale for the *Code* and FINA's Anti-Doping Rules

Anti-doping programs seek to preserve what is intrinsically valuable about sport. This intrinsic value is often referred to as "the spirit of sport". It is the essence of sport; the pursuit of human excellence through the dedicated perfection of each person's natural talents; it is how we play true. The spirit of sport is the celebration of the human spirit, body and mind, and is reflected in values we find in and through sport, including:

- Ethics, fair play and honesty
- Health
- Excellence in performance
- Character and education
- Fun and joy
- Teamwork
- Dedication and commitment
- Respect for rules and laws
- Respect for self and other *Participants*
- Courage
- Community and solidarity

Doping is fundamentally contrary to the spirit of sport.

### Scope

These Anti-Doping Rules shall apply to and be binding upon FINA and each FINA *Member Federation* and its members, and each Continental Body or regional organization consisting of FINA *Member Federations*. They shall also apply to the following *Athletes, Athlete Support Personnel* and other *Persons*, each of whom is deemed, as a condition of his or her membership, accreditation and/or participation in the sport, to have agreed to be bound by these Anti-Doping Rules, and to have submitted to the authority of FINA and its *Member Federations* to enforce these Anti-Doping Rules and to the jurisdiction of the FINA and *Member Federation* hearing panels specified in DC 8 and DC 13 to hear and determine cases and appeals brought under these Anti-Doping Rules:

- a) all *Athletes, Athlete Support Personnel* and other *Persons* who are members of FINA, or of any *Member Federation*, or of any member or affiliate organization of any *Member Federation* (including any clubs, teams, associations or leagues);
- b) all *Persons* participating in *Competitions* or other activities of FINA, *Member Federations*, clubs, teams, associations or leagues, or other members of *Member Federations*, or the aquatic *Competition of Major Event Organisations*. "Participation" shall be deemed to include assisting an *Athlete* in preparation for any of the *Competitions* described above. "*Persons*", as used in this rule, shall include, but not limited to, any *Athlete, Athlete Support Personnel*, coach, trainer, manager, team staff, agent, representative, official, medical or paramedical personnel or parent;
- c) any other *Athlete* or *Athlete Support Personnel* or other *Person* who, by virtue of an accreditation, a license or other contractual arrangement, or otherwise, is subject to the jurisdiction of FINA, or of any *Member Federation*, or of any member or affiliate organization of any *Member Federation* (including any clubs, teams, associations or leagues), for purposes of anti-doping.

Within the overall pool of *Athletes* set out above who are bound by and required to comply with these Anti-Doping Rules, the following *Athletes* shall be considered to be *International-Level Athletes* for purposes of these Anti-Doping Rules, and therefore the specific provisions in these Anti-Doping Rules applicable to *International-Level Athletes* (as regards *Testing* but also as regards *TUEs*, whereabouts information, results management, and appeals) shall apply to such *Athletes*:

- a) *Athletes* included in the FINA *Registered Testing Pool*;
- b) *Athletes* who are not included in the FINA *Registered Testing Pool* during their participation in the FINA *Competitions/ Events*.

All *Member Federations* shall comply with these Anti-Doping Rules. The regulations of *Member Federations* shall indicate that all FINA Rules including these Anti-Doping Rules shall be deemed as incorporated into and shall be directly applicable to and shall be agreed to and followed by *Athletes, Athlete Support Personnel*, team leaders, and club and Federation representatives under the jurisdiction of the respective *Member Federations*.

It is the responsibility of each *Member Federation* to ensure that all national-level *Testing* on the *Member Federation's Athletes* complies with these Anti-Doping Rules. In some cases, the *Member Federation* itself will be conducting the *Doping Control* described in these Anti-Doping Rules. In other countries, many of the *Doping Control* responsibilities of the *Member Federation* have been delegated or assigned to a *National Anti-Doping Organization* or *Regional Anti-Doping Organisation*. In those countries, references in these Anti-Doping Rules to the *Member Federation* shall apply, as applicable, to the *Member Federation's National Anti-Doping Organization* or *Regional Anti-Doping Organisation*.

## DC 1 DEFINITION OF DOPING

Doping is defined as the occurrence of one or more of the anti-doping rule violations set forth in DC 2.1 through DC 2.10 of these Anti-Doping Rules.

## DC 2 ANTI-DOPING RULE VIOLATIONS

The purpose of DC 2 is to specify the circumstances and conduct which 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.

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

The following constitute anti-doping rule violations:

### **DC 2.1 Presence of a *Prohibited Substance* or its *Metabolites* or *Markers* in an *Athlete's Sample*.**

**DC 2.1.1** 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 DC 2.1.

*[Comment to DC 2.1.1: An anti-doping rule violation is committed under this Article without regard to an Athlete's Fault. This rule has been referred to in various CAS decisions as "Strict Liability". An Athlete's Fault is taken into consideration in determining the Consequences of this anti-doping rule violation under DC 10. This principle has consistently been upheld by CAS.]*

**DC 2.1.2** Sufficient proof of an anti-doping rule violation under DC 2.1 is established by any 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 analyzed; or, where the *Athlete's B Sample* is analyzed 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*; or, where the *Athlete's B Sample* is split into two bottles and the analysis of the second bottle confirms the presence of the *Prohibited Substance* or its *Metabolites* or *Markers* found in the first bottle.

*[Comment to DC 2.1.2: FINA or its Member Federation with results management responsibility may at its discretion choose to have the B Sample analyzed even if the Athlete does not request the analysis of the B Sample.]*

**DC 2.1.3** Excepting those substances for which a quantitative 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.

**DC 2.1.4** As an exception to the general rule of DC 2.1, the *Prohibited List* or *International Standards* may establish special criteria for the evaluation of *Prohibited Substances* that can also be produced endogenously.

### **DC 2.2 Use or Attempted Use by an *Athlete* of a *Prohibited Substance* or a *Prohibited Method***

*[Comment to DC 2.2: 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 Comment to DC 3.2, unlike the proof required to establish an anti-doping rule violation under DC 2.1, 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, including data collected as part of the Athlete Biological Passport, or other analytical information which does not otherwise satisfy all the requirements to establish “Presence” of a Prohibited Substance under DC 2.1.*

*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 FINA or any Anti-Doping Organization provides a satisfactory explanation for the lack of confirmation in the other Sample.]*

**DC 2.2.1** It is each Athlete’s personal duty to ensure that no *Prohibited Substance* enters his or her body and that no *Prohibited Method* is Used. 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 violation for Use of a *Prohibited Substance* or a *Prohibited Method*.

**DC 2.2.2** 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.

*[Comment to DC 2.2.2: Demonstrating the “Attempted Use” of a Prohibited Substance or a Prohibited Method 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 DC 2.1 and violations of DC 2.2 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 DC 2.1 regardless of when that substance might have been administered.]*

### **DC 2.3 Evading, Refusing or Failing to Submit to Sample Collection**

Evading *Sample* collection, or without compelling justification, refusing or failing to submit to *Sample* collection after notification as authorized in these Anti-Doping Rules or other applicable anti-doping rules.

*[Comment to DC 2.3: For example, it would be an anti-doping rule violation of “evading Sample collection” if it were established that an Athlete was deliberately avoiding a Doping Control official to evade notification or Testing. A violation of “failing to submit to Sample collection” may be based on either intentional or negligent conduct of the Athlete, while “evading” or “refusing” Sample collection contemplates intentional conduct by the Athlete.]*

### **DC 2.4 Whereabouts Failures**

Any combination of three missed tests and/or filing failures, as defined in the International Standard for Testing and Investigations, within a twelve-month period by an *Athlete* in a *Registered Testing Pool*.

#### **DC 2.5 Tampering or Attempted Tampering with any part of Doping Control**

Conduct which subverts the *Doping Control* process but which would not otherwise be included in the definition of *Prohibited Methods*. *Tampering* shall include, without limitation, intentionally interfering or attempting to interfere with a *Doping Control* official, providing fraudulent information to an *Anti-Doping Organisation*, or intimidating or attempting to intimidate a potential witness.

*[Comment to DC 2.5: For example, this article would prohibit altering identification numbers on a Doping Control form during Testing, breaking the B bottle at the time of B Sample analysis, or altering a Sample by the addition of a foreign substance. Offensive conduct towards a Doping Control official or other Person involved in Doping Control which does not otherwise constitute Tampering may result in proceedings before the FINA Disciplinary Panel and shall also be addressed in the disciplinary rules of FINA and its Member Federations.]*

#### **DC 2.6 Possession of a Prohibited Substance or a Prohibited Methods**

**DC 2.6.1** *Possession by an Athlete In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition unless the Athlete establishes that the Possession is consistent with a therapeutic use exemption (“TUE”) granted in accordance with DC 4.4 or other acceptable justification.*

**DC 2.6.2** *Possession by an Athlete Support Person In-Competition of any Prohibited Substance or any Prohibited Method, or Possession by an Athlete Support Person Out-of-Competition of any Prohibited Substance or any Prohibited Method which is prohibited Out-of-Competition in connection with an Athlete, Competition or training, unless the Athlete Support Person establishes that the Possession is consistent with a TUE granted to an Athlete in accordance with DC 4.4 or other acceptable justification.*

*[Comment to DC 2.6.1 and 2.6.2: 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, e.g., buying Insulin for a diabetic child.]*

*[Comment to DC 2.6.2: Acceptable justification would include, for example, a team doctor carrying Prohibited Substances for dealing with acute and emergency situations.]*

#### **DC 2.7 Trafficking or Attempted Trafficking in any Prohibited Substance or Prohibited Method**

#### **DC 2.8 Administration or Attempted Administration to any Athlete In-Competition of any Prohibited Substance or Prohibited Method, or Administration or Attempted**

***Administration to any Athlete Out-of-Competition of any Prohibited Substance or any Prohibited Method that is prohibited Out-of-Competition.***

**DC 2.9 Complicity**

Assisting, encouraging, aiding, abetting, conspiring, covering up or any other type of intentional complicity involving an anti-doping rule violation, *Attempted* anti-doping rule violation or violation of DC 10.12.1 by another *Person*.

**DC 2.10 Prohibited Association**

Association by an *Athlete* or other *Person* subject to the authority of an *Anti-Doping Organization* in a professional or sport-related capacity with any *Athlete Support Personnel* who:

**DC 2.10.1** if subject to the authority of an *Anti-Doping Organization*, is serving a period of *Ineligibility*; or

**DC 2.10.2** if not subject to the authority of an *Anti-Doping Organization* and where *Ineligibility* has not been addressed in a results management process pursuant to the *Code*, has been convicted or found in a criminal, disciplinary or professional proceeding to have engaged in conduct which would have constituted a violation of anti-doping rules if *Code-compliant* rules had been applicable to such *Person*. The disqualifying status of such *Person* shall be in force for the longer of six years from the criminal, professional or disciplinary decision or the duration of the criminal, disciplinary or professional sanction imposed; or

**DC 2.10.3** is serving as a front or intermediary for an individual described in DC 2.10.1 or 2.10.2.

In order for this provision to apply, it is necessary (a) that the *Athlete* or other *Person* has previously been advised in writing by an *Anti-Doping Organization* with jurisdiction over the *Athlete* or other *Person*, or by *WADA*, of the *Athlete Support Person's* disqualifying status and the potential *Consequence* of prohibited association; and (b) that the *Athlete* or other *Person* can reasonably avoid the association. The *Anti-Doping Organization* shall also use reasonable efforts to advise the *Athlete Support Person* who is the subject of the notice to the *Athlete* or other *Person* that the *Athlete Support Person* may, within 15 days, come forward to the *Anti-Doping Organization* to explain that the criteria described in DC 2.10.1 and 2.10.2 do not apply to him or her. (Notwithstanding DC 17, this rule applies even when the *Athlete Support Person's* disqualifying conduct occurred prior to the effective date provided in DC 20.6.)

The burden shall be on the *Athlete* or other *Person* to establish that any association with *Athlete Support Personnel* described in DC 2.10.1 or 2.10.2 is not in a professional or sport-related capacity.

*Anti-Doping Organizations* that are aware of *Athlete Support Personnel* who meet the criteria described in DC 2.10.1, 2.10.2, or 2.10.3 shall submit that information to *WADA*.

*[Comment to DC 2.10: Athletes and other Persons must not work with coaches, trainers, physicians or other Athlete Support Personnel who are Ineligible on account of an anti-doping rule violation or who have been criminally convicted or professionally disciplined in*



*relation to doping. Some examples of the types of association which are prohibited include: obtaining training, strategy, technique, nutrition or medical advice; obtaining therapy, treatment or prescriptions; providing any bodily products for analysis; or allowing the Athlete Support Person to serve as an agent or representative. Prohibited association need not involve any form of compensation.]*

## **DC 3 PROOF OF DOPING**

### **DC 3.1 Burdens and Standards of Proof**

FINA and its *Member Federations* shall have the burden of establishing that an anti-doping rule violation has occurred. The standard of proof shall be whether FINA or the *Member Federation* has established an anti-doping rule violation to the comfortable satisfaction of the hearing panel bearing in mind the seriousness of the allegation which 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 these Anti-Doping Rules place 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.

*[Comment to DC 3.1: This standard of proof required to be met by the Anti-Doping Organization is comparable to the standard which is applied in most countries to cases involving professional misconduct.]*

### **DC 3.2 Methods of Establishing Facts and Presumptions**

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

*[Comment to DC 3.2: For example, FINA or the Member Federation may establish an anti-doping rule violation under DC 2.2 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 Comments to DC 2.2, or conclusions drawn from the profile of a series of the Athlete's blood or urine Samples such as data from the Athlete Biological Passport.]*

**DC 3.2.1** Analytical methods or decision limits approved by WADA after consultation within the relevant scientific community and which have been the subject of peer review are presumed to be scientifically valid. Any *Athlete* or other *Person* seeking to rebut this presumption of scientific validity shall, as a condition precedent to any such challenge, first notify WADA of the challenge and the basis of the challenge. CAS on its own initiative may also inform WADA of any such challenge. At WADA's request, the CAS panel shall appoint an appropriate scientific expert to assist the panel in its evaluation of the challenge. Within 10 days of WADA's receipt of such notice, and WADA's receipt of the CAS file, WADA shall also have the right to intervene as a party, appear *amicus curiae*, or otherwise provide evidence in such proceeding.

**DC 3.2.2** WADA-accredited laboratories, and other laboratories approved by WADA, 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 FINA or the *Member Federation* shall have the burden to establish that such departure did not cause the *Adverse Analytical Finding*.

*[Comment to DC 3.2.2: 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 FINA or its Member Federation to prove to the comfortable satisfaction of the hearing panel that the departure did not cause the Adverse Analytical Finding.]*

**DC 3.2.3** Departures from any other *International Standard* or other anti-doping rule or policy set forth in the *Code* or these Anti-Doping Rules which did not cause an *Adverse Analytical Finding* or other anti-doping rule violation shall not invalidate such evidence or results. If the *Athlete* or other *Person* establishes a departure from another *International Standard* or other anti-doping rule or policy which could reasonably have caused an anti-doping rule violation based on an *Adverse Analytical Finding* or other anti-doping rule violation, then FINA or its *Member Federation* 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.

**DC 3.2.4** 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.

**DC 3.2.5** 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 from FINA or its *Member Federation* asserting the anti-doping rule violation.

## **DC 4 THE PROHIBITED LIST**

### **DC 4.1 Incorporation of the *Prohibited List***

These Anti-Doping Rules incorporate the *Prohibited List* which is published and revised by WADA as described in Article 4.1 of the *Code*. FINA will make the current *Prohibited List* available to each *Member Federation*, and each *Member Federation* shall ensure that the current *Prohibited List* is available to its members and constituents.<sup>1</sup>

### **DC 4.2 *Prohibited Substances and Prohibited Methods* Identified on the *Prohibited List***

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<sup>1</sup> The most up to date *Prohibited List* is available on WADA's website at [www.wada-ama.org](http://www.wada-ama.org).

#### **DC 4.2.1 Prohibited Substances and Prohibited Methods**

Unless provided otherwise in the *Prohibited List* and/or a revision, the *Prohibited List* and revisions shall go into effect under these Anti-Doping Rules three months after publication of the *Prohibited List* by WADA without requiring any further action by FINA or its *Member Federations*. All *Participants* shall be bound by the *Prohibited List*, and any revisions thereto, from the date they go into effect, without further formality. It is the responsibility of all *Participants* to familiarize themselves with the most up-to-date version of the *Prohibited List* and all revisions thereto.

#### **DC 4.2.2 Specified Substances**

For purposes of the application of DC 10, 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*. The category of *Specified Substances* shall not include *Prohibited Methods*.

*[Comment to DC 4.2.2: Specified Substances should not in any way be considered less important or less dangerous than other doping substances. Rather, they are simply substances which are more likely to have been consumed by an Athlete for a purpose other than the enhancement of sport performance.]*

#### **DC 4.2.3 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 DC 4.2.2.

### **DC 4.3 WADA’s Determination of the Prohibited List**

WADA’s determination of the *Prohibited Substances* and *Prohibited Methods* that will be included on the *Prohibited List*, the classification of substances into categories on the *Prohibited List*, and the classification of the substance as prohibited at all times or *In-Competition* only, 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.

### **DC 4.4 Therapeutic Use Exemptions (“TUEs”)**

**DC 4.4.1** The presence of a *Prohibited Substance* or its *Metabolites* or *Markers*, and/or the *Use* or *Attempted Use*, *Possession* or *Administration* or *Attempted Administration* of a *Prohibited Substance* or a *Prohibited Method* shall not be considered an anti-doping rule violation if it is consistent with the provisions of a *TUE* granted in accordance with the International Standard for Therapeutic Use Exemptions.

**DC 4.4.2** An *Athlete* who is not an *International-Level Athlete* should apply to his or her *National Anti-Doping Organisation* for a *TUE*. If the *National Anti-Doping Organisation* denies the application, the *Athlete* may appeal exclusively to the national-level appeal body described in DC 13.2.2 and 13.2.3.

**DC 4.4.3** An *International-Level Athlete* who wishes to use a *Prohibited Substance* or a *Prohibited Method* for therapeutic reasons must apply to FINA:

**DC 4.4.3.1** Where the *Athlete* already has a *TUE* granted by his or her *National Anti-Doping Organization* for the substance or method in question, then that *TUE* is not automatically valid for international-level *Competition*. However, the *Athlete* may apply to FINA to recognize that *TUE*, in accordance with Article 7 of the International Standard for Therapeutic Use Exemptions. If that *TUE* meets the criteria set out in the International Standard for Therapeutic Use Exemptions, then FINA shall recognize it for purposes of international-level *Competition* as well. If FINA considers that the *TUE* does not meet those criteria and so refuses to recognize it, FINA shall notify the *Athlete* and his or her *National Anti-Doping Organization* or *Member Federation* as relevant, promptly, with reasons. The *Athlete* and/or the *National Anti-Doping Organization* shall have 21 days from such notification to refer the matter to WADA for review. If the matter is referred to WADA for review, the *TUE* granted by the *National Anti-Doping Organization* remains valid for national-level *Competition* and *Out-of-Competition Testing* (but is not valid for international-level *Competition*) pending WADA's decision. If the matter is not referred to WADA for review, the *TUE* becomes invalid for any purpose when the 21-day review deadline expires.

*[Comment to DC 4.4.3.1: If FINA refuses to recognize a TUE granted by a National Anti-Doping Organization only because medical records or other information are missing that are needed to demonstrate satisfaction with the criteria in the International Standard for Therapeutic Use Exemptions, the matter should not be referred to WADA. Instead, the file should be completed and re-submitted to FINA.]*

**DC 4.4.3.2** If the *Athlete* does not already have a *TUE* granted by his or her *National Anti-Doping Organization* for the substance or method in question, the *Athlete* must apply directly to FINA for a *TUE* in accordance with the process set out in the International Standard for Therapeutic Use Exemptions. If FINA denies the *Athlete's* application, it must notify the *Athlete* promptly, with reasons. If FINA grants the *Athlete's* application, it shall notify not only the *Athlete* but also his or her *National Anti-Doping Organization* or *Member Federation*, as relevant. If the *National Anti-Doping Organization* considers that the *TUE* does not meet the criteria set out in the International Standard for Therapeutic Use Exemptions, it has 21 days from such notification to refer the matter to WADA for review. If the *National Anti-Doping Organization* refers the matter to WADA for review, the *TUE* granted by FINA remains valid for international-level *Competition* and *Out-of-Competition Testing* (but is not valid for national-level *Competition*) pending WADA's decision. If the *National Anti-Doping Organization* does not refer the matter to WADA for review, the *TUE* granted by FINA becomes valid for national-level *Competition* as well when the 21-day review deadline expires.

**DC 4.4.4** Some *Major Event Organisations* may require *Athletes* to apply to them for a *TUE* if they wish to Use a *Prohibited Substance* or *Prohibited Method* in connection with the *Major Event Organisation's Competition*.

**DC 4.4.5** If FINA chooses to test an *Athlete* who is not an *International-Level Athlete*, FINA shall recognize a *TUE* granted to that *Athlete* by his or her *National Anti-Doping Organization*. If FINA chooses to test an *Athlete* who is not an *International-Level* or a *National-Level Athlete*, FINA shall permit that *Athlete* to apply for a retroactive *TUE* for any *Prohibited Substance* or *Prohibited Method* he or she is using for therapeutic reasons.

**DC 4.4.6** An application to FINA for grant or recognition of a *TUE* must be made as soon as the need arises and in any event (save in emergency or exceptional situations or where Article 4.3 of the International Standard for Therapeutic Use Exemptions applies) at least 30 days before the *Athlete's* next *Competition*. FINA shall appoint a FINA *TUE* Committee to consider applications for the grant or recognition of *TUEs*. The FINA *TUE* Committee shall promptly evaluate and decide upon the application in accordance with the relevant provisions of the International Standard for Therapeutic Use Exemptions, these Anti-Doping Rules and any FINA protocols. Its decision shall be the final decision of FINA, and shall be reported to the *Athlete*, WADA and other relevant *Anti-Doping Organizations*, including the *Athlete's National Anti-Doping Organization* or *Athlete's Member Federation* as relevant, through ADAMS, in accordance with the International Standard for Therapeutic Use Exemptions.

*[Comment to DC 4.4.6: The submission of false or misleadingly incomplete information in support of a TUE application (including but not limited to the failure to advise of the unsuccessful outcome of a prior application to another Anti-Doping Organization for such a TUE) may result in a charge of Tampering or Attempted Tampering under DC 2.5.*

*An Athlete should not assume that his or her application for grant or recognition of a TUE (or for renewal of a TUE) will be granted. Any Use or Possession or Administration of a Prohibited Substance or Prohibited Method before an application has been granted is entirely at the Athlete's own risk.]*

#### **DC 4.4.7 Expiration, Cancellation, Withdrawal or Reversal of a TUE**

**DC 4.4.7.1** A *TUE* granted pursuant to these Anti-Doping Rules: (a) shall expire automatically at the end of any term for which it was granted, without the need for any further notice or other formality; (b) may be cancelled if the *Athlete* does not promptly comply with any requirements or conditions imposed in connection with the *TUE*; (c) may be withdrawn by FINA or *National Anti-Doping Organisation's TUE* Committee if it is subsequently determined that the criteria for grant of a *TUE* are not in fact met; or (d) may be reversed on review by WADA or on appeal.

**DC 4.4.7.2** In such event, the *Athlete* shall not be subject to any *Consequences* based on his or her *Use* or *Possession* or *Administration* of the *Prohibited Substance* or *Prohibited Method* in question in accordance with the *TUE* prior to the effective date of expiry, cancellation, withdrawal or reversal of the *TUE*. The review pursuant to DC 7.1.2 and DC 7.2.2 of any subsequent *Adverse Analytical Finding* or *Atypical Finding* shall include consideration of whether such finding is consistent with *Use* of the *Prohibited Substance* or *Prohibited*

*Method* prior to that date, in which event no anti-doping rule violation shall be asserted.

#### **DC 4.4.8 Reviews and Appeals of TUE Decisions**

**DC 4.4.8.1** WADA shall review any decision by FINA not to recognize a TUE granted by the *National Anti-Doping Organization* that is referred to WADA by the *Athlete* or the *Athlete's National Anti-Doping Organization*. In addition, WADA shall review any decision by FINA to grant a TUE that is referred to WADA by the *Athlete's National Anti-Doping Organization*. WADA may review any other TUE decisions at any time, whether upon request by those affected or on its own initiative. If the TUE decision being reviewed meets the criteria set out in the International Standard for Therapeutic Use Exemptions, WADA will not interfere with it. If the TUE decision does not meet those criteria, WADA will reverse it.

**DC 4.4.8.2** Any TUE decision by FINA that is not reviewed by WADA, or that is reviewed by WADA but is not reversed upon review, may be appealed by the *Athlete* and/or the *Athlete's National Anti-Doping Organization* exclusively to CAS, in accordance with DC 13.

*[Comment to DC 4.4.8.2: In such cases, the decision being appealed is the FINA's TUE decision, not WADA's decision not to review the TUE decision or (having reviewed it) not to reverse the TUE decision. However, the deadline to appeal the TUE decision does not begin to run until the date that WADA communicates its decision. In any event, whether the decision has been reviewed by WADA or not, WADA shall be given notice of the appeal so that it may participate if it sees fit.]*

**DC 4.4.8.3** A decision by WADA to reverse a TUE decision may be appealed by the *Athlete*, the *National Anti-Doping Organization* and/or FINA exclusively to CAS, in accordance with DC 13.

**DC 4.4.8.4** A failure to take action within a reasonable time on a properly submitted application for grant/recognition of a TUE or for review of a TUE decision shall be considered a denial of the application.

### **DC 5 TESTING AND INVESTIGATIONS**

#### **DC 5.1 Purpose of Testing and Investigation**

*Testing* and investigation shall only be undertaken for anti-doping purposes. They shall be conducted in conformity with the provisions of the International Standard for Testing and Investigations and any protocols of FINA supplementing that International Standard.

**DC 5.1.1** *Testing* shall be undertaken to obtain analytical evidence as to the *Athlete's* compliance (or non-compliance) with the strict *Code* prohibition on the presence/*Use* of a *Prohibited Substance* or *Prohibited Method*.

**DC 5.1.2** Investigations shall be undertaken:

**DC 5.1.2.1** in relation to *Atypical Findings* and *Adverse Passport Findings*, in accordance with DC 7.2 and 7.3 respectively, gathering intelligence or evidence

(including, in particular, analytical evidence) in order to determine whether an anti-doping rule violation has occurred under DC 2.1 and/or DC 2.2; and

**DC 5.1.2.2** in relation to other indications of potential anti-doping rule violations, in accordance with DC 7.4 and 7.5, gathering intelligence or evidence (including, in particular, non-analytical evidence) in order to determine whether an anti-doping rule violation has occurred under any of DC 2.2 to 2.10.

**DC 5.1.3** FINA may obtain, assess and process anti-doping intelligence from all available sources, to inform the development of an effective, intelligent and proportionate test distribution plan, to plan *Target Testing*, and/or to form the basis of an investigation into a possible anti-doping rule violation(s).

### **DC 5.2 Authority to conduct *Testing***

**DC 5.2.1** Subject to the jurisdictional limitations for *Event Testing* set out in Article 5.3 of the *Code*, FINA shall have *In-Competition* and *Out-of-Competition Testing* authority over all of the *Athletes* specified in the Introduction to these Anti-Doping Rules (under the heading "Scope").

**DC 5.2.2** FINA may require any *Athlete* over whom it has *Testing* authority (including any *Athlete* serving a period of *Ineligibility*) to provide a *Sample* at any time and at any place.

*[Comment to DC 5.2.2: Unless the Athlete has identified a 60-minute testing window during the the following-described time period, or otherwise consented to Testing during that period, before Testing an Athlete between the hours of 11:00 p.m. and 6:00 a.m., FINA should have serious and specific suspicion that the Athlete may be engaged in doping. A challenge to whether FINA had sufficient suspicion for Testing during this time period shall not be a defense to an anti-doping rule violation based on such test or Attempted test.]*

**DC 5.2.3** Every *Member Federation* shall include in their rules a provision obliging the *Member Federation* to allow unannounced *Doping Control* of any *Athlete* under its jurisdiction. It is the duty of every *Member Federation* to assist FINA and, if appropriate, other *Member Federations* in the carrying out of unannounced *Testing*. Any *Member Federation* preventing, hindering or otherwise obstructing the carrying out of such *Testing* shall be liable to sanctions according to Rule C 12.

**DC 5.2.4** WADA shall have *In-Competition* and *Out-of-Competition Testing* authority as set out in Article 20.7.8 of the *Code*.

**DC 5.2.5** If FINA delegates or contracts any part of *Testing* to a *National Anti-Doping Organization* (directly or through a *Member Federation*), that *National Anti-Doping Organization* may collect additional *Samples* or direct the laboratory to perform additional types of analysis at the *National Anti-Doping Organization's* expense. If additional *Samples* are collected or additional types of analysis are performed, FINA shall be notified.

### **DC 5.3 Event/ Competition Testing**

**DC 5.3.1** Except as provided in Article 5.3 of the *Code*, only a single organization should be responsible for initiating and directing *Testing* at *Competition Venues* during a *Competition Period*. At *International Competitions*, the collection of *Samples* shall be initiated and directed by the international organization which is the ruling body for the *Competition* (e.g. FINA for FINA Competitions, International Olympic Committee for the Olympic Games). Any *Testing* during the *FINA Competition Period* outside of the *Competition Venues* shall be coordinated with FINA.

**DC 5.3.2** If an *Anti-Doping Organisation* which would otherwise have *Testing* authority but is not responsible for initiating and directing *Testing* at a *Competition* desires to conduct *Testing* of *Athletes* at the *Competition Venues* during the *Competition Period*, the *Anti-Doping Organisation* shall first confer with FINA (or any other ruling body of the *Competition*) to obtain permission to conduct and coordinate such *Testing*. If the *Anti-Doping Organisation* is not satisfied with the response from FINA (or any other ruling body of the *Competition*) the *Anti-Doping Organisation* may, in accordance with procedures published by WADA, ask WADA for permission to conduct *Testing* and to determine how to coordinate such *Testing*. WADA shall not grant approval for such *Testing* before consulting with and informing FINA (or any other ruling body of the *Competition*). WADA's decision shall be final and not subject to appeal. Unless otherwise provided in the authorization to conduct *Testing*, such tests shall be considered *Out-of-Competition* tests. Results management for any such test shall be the responsibility of the *Anti-Doping Organisation* initiating the test unless provided otherwise in the rules of the ruling body of the *Competition*.

#### **DC 5.3.3 FINA Competition Testing**

**DC 5.3.3.1** The actual conduct of *Testing* at all FINA *Competitions* shall be the responsibility of a Doping Control Commission of one or more people appointed by the FINA Bureau or its designee. FINA may designate any party that is deemed suitable by FINA to collect *Samples* in accordance with these Anti-Doping Rules. Such designee shall be referred to in these Anti-Doping Rules as a *Sample Collection Authority*.

**DC 5.3.3.2** Any *Athlete* equaling or breaking a World Record shall submit to *Testing* following the race. When a relay team breaks or equals a World Record, all *Athletes* swimming the relay shall be tested. If no *Testing* is conducted at the *Competition*, the *Athletes* shall be responsible for making arrangements to submit to *Testing* no later than 24 hours after the race. No World Record shall be recognised without a negative doping test certificate for all *Prohibited Substances* or *Prohibited Methods* identified on the *Prohibited List* for which an analytical technique is available.

**DC 5.3.3.3** Should an *Athlete* obtain a national record in a FINA *Competition* and not otherwise be selected for *Testing*, and the Rules of the *Member Federation* of the *Athlete* are similar to DC 5.3.3.2, the *Member Federation* may request FINA to conduct *Testing* on such *Athlete* upon payment of a fee reasonably determined by FINA.

#### **DC 5.3.4 Major Event Organisations Testing**



**DC 5.3.4.1** In the Olympic Games, the FINA Executive or its designee, in collaboration with the IOC Medical Commission, shall determine the number of *Athletes* to be tested each day and for each discipline, and procedures followed shall be those set forth in the then-current anti-doping rules of the IOC. A similar procedure should be followed in all other *Competitions* not organised by FINA with collaboration of other medical and organising committees, as appropriate.

**DC 5.3.4.2** At every *Competition* conducted by either a Continental Organisation recognized by FINA or by a regional organization consisting of *Member Federations* of FINA, the respective Continental Organisation or regional organization shall be responsible for conducting *Testing*. Sanctions for violations of these Anti-Doping Rules at such *Competitions* beyond *Disqualifications* from the *Competitions* or the results of the *Competition* shall be heard by the FINA Doping Panel.

#### **DC 5.3.5 Member Federation Testing**

**DC 5.3.5.1** At all other *Competitions* (except where *Testing* is carried out under the rules of another sporting body), the *Member Federation* conducting the *Testing* or in whose territory a *Competition* is held shall be responsible for conducting *Doping Control*. The *Member Federation* shall apply procedures substantially in accordance with the International Standard for Testing and Investigations. The FINA Bureau may impose a sanction to a *Member Federation* that does not apply procedures in accordance with this Rule.

#### **DC 5.4 Test Distribution Planning and Athlete Whereabouts Information**

**DC 5.4.1** FINA will develop and implement an effective, intelligent and proportionate test distribution plan that prioritizes appropriately between disciplines, categories of *Athletes*, types of *Testing*, types of *Samples* collected, and types of *Sample* analysis, all in compliance with the requirements of the International Standard for Testing and Investigations. FINA will provide WADA upon request with a copy of its current test distribution plan.

**DC 5.4.2** FINA shall establish a FINA *Registered Testing Pool* of those *Athletes* who are required to comply with the whereabouts requirements of Annex I to the International Standard for Testing and Investigations. FINA should coordinate with *National Anti-Doping Organisations* the identification of such *Athletes* and the collection of their whereabouts information. FINA shall review and update as necessary its criteria for including *Athletes* in its *Registered Testing Pool* and shall revise the membership of its *Registered Testing Pool* from time to time as appropriate in accordance with the set criteria. All *Athletes* included or removed from the *Registered Testing Pool* and the *Member Federations* to which they belong shall receive written information about the inclusion or exclusion of an *Athlete* in the FINA *Registered Testing Pool*.

**DC 5.4.3** It shall be the obligation of each *Athlete* in the FINA *Registered Testing Pool* as well as that *Athlete's Member Federation*, to keep FINA informed about where the *Athlete* can be met for unannounced *Testing*. It is the responsibility of each *Athlete* in the FINA *Registered Testing Pool* to:

- (a) advise FINA of his or her whereabouts on a quarterly basis;

(b) update that information as necessary so that it remains accurate and complete at all times;

(c) make him or herself available for *Testing* at such whereabouts.

**DC 5.4.4** For purposes of DC 2.4, an *Athlete's* failure to comply with the requirements of the International Standard for Testing and Investigations shall be deemed a filing failure or a missed test (as defined in the International Standard for Testing and Investigations) where the conditions set forth in the International Standard for Testing and Investigations for declaring a filing failure or missed test are met. Furthermore, if the *Athlete* cannot be found for unannounced *Testing* due to incorrect or insufficient information provided to FINA, the *Member Federation* to which the *Athlete* is affiliated shall be obliged to pay expenses for the unsuccessful attempt of *Testing* in accordance with DC 12.3 and DC 12.4.

**DC 5.4.5** For the purpose of applying DC 2.4, each *Member Federation* shall report to FINA each missed test or failure by an *Athlete* to file required whereabouts information within 14 days after the *Member Federation* becomes aware of the missed test or filing failure.

**DC 5.4.6** Whereabouts information relating to an *Athlete* shall be shared (preferably through ADAMS) with WADA and other *Anti-Doping Organizations* having authority to test that *Athlete*, shall be maintained in strict confidence at all times, shall be used exclusively for the purposes set out in Article 5.6 of the *Code*, and shall be destroyed in accordance with the International Standard for the Protection of Privacy and Personal Information once it is no longer relevant for these purposes.

## **DC 5.5 Retirement and Return to *Competition***

**DC 5.5.1** An *Athlete* in FINA's *Registered Testing Pool* shall continue to be subject to these Anti-Doping Rules, including the obligation to be available for unannounced *Testing* and to provide his or her whereabouts information, unless and until the *Athlete* gives written notice to FINA that he or she has retired. An *Athlete* is accountable for any violation of these Anti-Doping Rules occurring prior to FINA's receipt of his or her notice of retirement.

**DC 5.5.2** An *Athlete* who has given notice of retirement to FINA may not resume competing unless he or she notifies FINA in writing at least six (6) months before he or she expects to return to *Competition* and is available for *Testing* at any time during the period before actual return to *Competition*. An *Athlete* seeking reinstatement is subject to these Anti-Doping Rules in their entirety from the date reinstatement is requested, including (if requested) complying with the whereabouts requirements of Annex I to the International Standard for Testing and Investigations. WADA in consultation with FINA and the *Athlete's Member Federation* as well as *National Anti-Doping Organisation*, may grant an exemption to the six-month written notice rule where the strict application of that rule would be manifestly unfair to the *Athlete*. This decision may be appealed under DC 13. Any competitive results obtained in violation of this DC 5.5.2 shall be *Disqualified*.

**DC 5.5.3** If an *Athlete* or other *Person* retires while a results management process is underway, the *Anti-Doping Organization* conducting the results management process retains jurisdiction to complete its results management process. If an *Athlete* or other

*Person* retires before any results management process has begun, the *Anti-Doping Organization* which would have had results management authority over the *Athlete* or other *Person* at the time the *Athlete* or other *Person* committed an anti-doping rule violation, has authority to conduct results management in respect of that anti-doping rule violation.

*[Comment to DC 5.5.3: Conduct by an Athlete or other Person before the Athlete or other Person was subject to the jurisdiction of any Anti-Doping Organization would not constitute an anti-doping rule violation but could be a legitimate basis for denying the Athlete or other Person membership in a sports organization.]*

**DC 5.5.4** If an *Athlete* retires from sport while subject to a period of *Ineligibility*, the *Athlete* shall not resume competing in International or National *Competitions* until the *Athlete* has given six months prior written notice (or notice equivalent to the period of *Ineligibility* remaining as of the date the *Athlete* retired, if that period was longer than six months) to FINA, his or her *Member Federation* as well as *National Anti-Doping Organization*, of his or her intent to resume competing and has made himself or herself available for *Testing* for that notice period, including complying with the whereabouts requirements of Annex I to the International Standard for Testing and Investigations.

## **DC 6 ANALYSIS OF SAMPLES**

*Samples* shall be analysed in accordance with the following principles:

### **DC 6.1 Use of Accredited and Approved Laboratories**

For purposes of DC 2.1, *Samples* shall be analysed only in laboratories accredited or otherwise approved by WADA. The choice of the WADA-accredited or WADA-approved laboratory used for the *Sample* analysis shall be determined exclusively by FINA for *Testing* conducted by FINA, and by the *Member Federation* for *Testing* conducted by the *Member Federation*.

*[Comment to DC 6.1: Violations of DC 2.1 may be established only by Sample analysis performed by a laboratory accredited or otherwise approved by WADA. Violations of other rules may be established using analytical results from other laboratories so long as the results are reliable.]*

### **DC 6.2 Purpose of Analysis of Samples**

**DC 6.2.1** *Samples* shall be analyzed to detect *Prohibited Substances* and *Prohibited Methods* and other substances as may be directed by WADA pursuant to the Monitoring Program described in Article 4.5 of the *Code*; or to assist in profiling relevant parameters in an *Athlete's* urine, blood or other matrix, including DNA or genomic profiling; or for any other legitimate anti-doping purpose. *Samples* may be collected and stored for future analysis.

*[Comment to DC 6.2.1: For example, relevant profile information could be used to direct Target Testing or to support an anti-doping rule violation proceeding under DC 2.2 or both.]*

**DC 6.2.2** FINA and its *Member Federations* shall ask laboratories to analyse *Samples* in conformity with Article 6.4 of the *Code* and Article 4.7 of the International Standard for Testing and Investigations.

### **DC 6.3 Research on *Samples***

No *Sample* may be used for research without the *Athlete's* written consent. *Samples* used for purposes other than DC 6.2 shall have any means of identification removed such that they cannot be traced back to a particular *Athlete*.

### **DC 6.4 Standards for *Sample Analysis and Reporting***

Laboratories shall analyze *Samples* and report results in conformity with the International Standard for Laboratories. To ensure effective *Testing*, the Technical Document referenced at Article 5.4.1 of the *Code* will establish risk assessment-based *Sample* analysis menus appropriate for particular sports and sport disciplines, and laboratories shall analyze *Samples* in conformity with those menus, except as follows:

**DC 6.4.1** FINA or its *Member Federation* may request that laboratories analyze its *Samples* using more extensive menus than those described in the Technical Document.

**DC 6.4.2** FINA or its *Member Federation* may request that laboratories analyze its *Samples* using less extensive menus than those described in the Technical Document only if it has satisfied WADA that, because of the particular circumstances of its sport, as set out in its Test Distribution Plan, less extensive analysis would be appropriate.

**DC 6.4.3** As provided in the International Standard for Laboratories, laboratories at their own initiative and expense may analyze *Samples* for *Prohibited Substances* or *Prohibited Methods* not included on the *Sample* analysis menu described in the Technical Document or specified by the *Testing* authority. Results from any such analysis shall be reported and have the same validity and consequence as any other analytical result.

*[Comment to DC 6.4: The objective of this rule is to extend the principle of "intelligent Testing" to the Sample analysis menu so as to most effectively and efficiently detect doping. It is recognized that the resources available to fight doping are limited and that increasing the Sample analysis menu may, in some sports and countries, reduce the number of Samples which can be analyzed.]*

### **DC 6.5 Further Analysis of *Samples***

Any *Sample* may be subject to further analysis by the *Anti-Doping Organisation* responsible for results management at any time before both the A and B *Sample* analytical results (or A *Sample* result where B *Sample* analysis has been waived or will not be performed) have been communicated by the *Anti-Doping Organisation* to the *Athlete* as the asserted basis for a DC 2.1 anti-doping rule violation.

*Samples* may be stored and subjected to further analyses for purpose of DC 6.2 at any time exclusively at the discretion of the *Anti-Doping Organisation* that initiated and directed *Sample* collection or WADA. (Any *Sample* storage or further analysis initiated by WADA shall be at WADA's expense.) Further analysis of *Samples* shall conform with the

requirements of the International Standard for Laboratories and the International Standard for Testing and Investigations.

## DC 7 RESULTS MANAGEMENT

### DC 7.1 Review of *Adverse Analytical Findings* from Tests initiated by FINA

**DC 7.1.1** The results from all analyses must be sent to FINA in encoded form, in a report signed by an authorised representative of the laboratory. All communication must be arranged in such a way that the results of the analyses are confidential.

**DC 7.1.2** Upon receipt of an *Adverse Analytical Finding*, the DCRB or its designee shall conduct a review to determine whether: (a) an applicable *TUE* has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or (b) based on the documentation submitted to FINA there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the *Adverse Analytical Finding*.

**DC 7.1.3** If the review of an *Adverse Analytical Finding* under DC 7.1.2 does not reveal an applicable *TUE* or entitlement to a *TUE* as provided in the International Standard for Therapeutic Use Exemptions, or departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the *Adverse Analytical Finding*, FINA shall promptly notify the *Athlete*, *Athlete's Member Federation*, *Athlete's National Anti-Doping Organisation* and WADA, in the manner set out in DC 14.1, of: (a) the *Adverse Analytical Finding*; (b) the anti-doping rule violated; (c) the *Athlete's* right to promptly request the analysis of the B *Sample* or, failing such request, that the B *Sample* analysis may be deemed waived; (d) the scheduled date, time and place for the B *Sample* analysis if the *Athlete* or FINA chooses to request an analysis of the B *Sample*; (e) the right of the *Athlete* and/or the *Athlete's* representative to attend the B *Sample* opening and analysis in accordance with the International Standard for Laboratories if such analysis is requested; and (f) the *Athlete's* right to request copies of the A and B *Sample* laboratory documentation package which includes information as required by the International Standard for Laboratories. If FINA decides not to bring forward the *Adverse Analytical Finding* as an anti-doping rule violation, it shall so notify the *Athlete*, *Athlete's Member Federation*, the *Athlete's National Anti-Doping Organization* and WADA.

**DC 7.1.4** Where requested by the *Athlete* or FINA, arrangements should be made to analyse the B *Sample*. An *Athlete* may accept the A *Sample* analytical results by waiving the requirement for B *Sample* analysis. FINA may nonetheless elect to proceed with the B *Sample* analysis.

**DC 7.1.5** The *Athlete* and/or his representative shall be allowed to be present at the analysis of the B *Sample*. If the *Athlete* cannot be present for the B *Sample* analysis at the scheduled date and time, the FINA Executive may appoint a surrogate representative to be present. Also a representative of the *Athlete's Member Federation* as well as a representative of FINA shall be allowed to be present.

**DC 7.1.6** If the B *Sample* analysis does not confirm the A *Sample* analysis, then (and unless FINA takes the case forward as an anti-doping rule violation under DC 2.2) the entire test shall be considered negative and the *Athlete*, the *Athlete's Member*

*Federation, the Athlete's National Anti-Doping Organisation and WADA shall be so informed.*

**DC 7.1.7** If the *B Sample* analysis confirms the *A Sample* analysis the findings shall be reported to FINA, the *Athlete*, the *Athlete's Member Federation*, the *Athlete's National Anti-Doping Organisation* and WADA.

## **DC 7.2 Review of *Atypical Findings* from Tests initiated by FINA**

**DC 7.2.1** As provided in the International Standard for Laboratories, in some circumstances laboratories are directed to report the presence of *Prohibited Substances*, which may also be produced endogenously as *Atypical Findings*, i.e. as findings that are subject to further investigation.

**DC 7.2.2** Upon receipt of an *Atypical Finding*, FINA shall conduct a review to determine whether: (a) an applicable *TUE* has been granted or will be granted as provided in the International Standard for Therapeutic Use Exemptions, or (b) there is any apparent departure from the International Standard for Testing and Investigations or International Standard for Laboratories that caused the *Atypical Finding*.

**DC 7.2.3** If the review of an *Atypical Finding* under DC 7.2.2 does not reveal an applicable *TUE* or a departure from the International Standard for Testing and Investigations or the International Standard for Laboratories that caused the *Atypical Finding*, FINA shall conduct the required investigation. After the investigation is completed, the *Athlete*, the *Athlete's Member Federation*, the *Athlete's National Anti-Doping Organisation* and WADA shall be notified whether or not the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*. The *Athlete* shall be notified as provided in DC 7.1.3.

**DC 7.2.4** FINA will not provide notice of an *Atypical Finding* until it has completed its investigation and has decided whether it will bring the *Atypical Finding* forward as an *Adverse Analytical Finding* unless one of the following circumstances exists:

(a) If the *DCRB* or its designee determines the *B Sample* should be analyzed prior to the conclusion of its investigation, FINA may conduct the *B Sample* analysis after notifying the *Athlete*, with such notice to include a description of the *Atypical Finding* and the information described in DC 7.1.3 (b)-(f).

(b) If FINA receives a request, either from a *Major Event Organization* shortly before one of its *International Competitions* or a request from a sport organization responsible for meeting an imminent deadline for selecting team members for an *International Competition*, to disclose whether any *Athlete* identified on a list provided by the *Major Event Organization* or sport organization has a pending *Atypical Finding*, FINA shall so advise the *Major Event Organisation* or sports organisation after first providing notice of the *Atypical Finding* to the *Athlete*.

*[Comment to DC 7.2.4(b): Under the circumstance described in DC 7.2.4(b), the option to take action would be left to the Major Event Organization or sport organization consistent with its rules.]*

### **DC 7.3 Review of *Atypical Passport Findings* and *Adverse Passport Findings* from Tests initiated by FINA**

Review of *Atypical Passport Findings* and *Adverse Passport Findings* shall take place as provided in the International Standard for Testing and Investigations and International Standard for Laboratories. At such time as FINA is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously the *Athlete's Member Federation*, the *Athlete's National Anti-Doping Organization* and WADA) notice of the anti-doping rule violation asserted and the basis of that assertion.

### **DC 7.4 Review of Whereabouts Failures**

FINA shall review potential filing failures and missed tests, as defined in the International Standard for Testing and Investigations, in respect of *Athletes* who file their whereabouts information with FINA, in accordance with Annex I to the International Standard for Testing and Investigations. At such time as FINA is satisfied that a DC 2.4 anti-doping rule violation has occurred, it shall promptly give the *Athlete* (and simultaneously the *Athlete's Member Federation*, the *Athlete's National Anti-Doping Organization* and WADA) notice that it is asserting a violation of DC 2.4 and the basis of that assertion.

### **DC 7.5 Review of Other Anti-Doping Rule Violations Not Covered by DC 7.1–7.4**

FINA shall conduct any follow-up investigation required into a possible anti-doping rule violation not covered by DC 7.1-7.4. At such time as FINA is satisfied that an anti-doping rule violation has occurred, it shall promptly give the *Athlete* or other *Person* (and simultaneously the *Athlete's* or other *Person's Member Federation*, the *Athlete's* or other *Person's National Anti-Doping Organization* and WADA) notice of the anti-doping rule violation asserted and the basis of that assertion.

### **DC 7.6 Identification of Prior Anti-Doping Rule Violations**

Before giving an *Athlete* or other *Person* notice of an asserted anti-doping rule violation as provided above, FINA shall refer to ADAMS and contact WADA and other relevant *Anti-Doping Organizations* to determine whether any prior anti-doping rule violation exists.

### **DC 7.7 Results Management by *Member Federations***

**DC 7.7.1** Results management conducted by *Member Federations* shall be consistent with the general principles for effective and fair results management which underlie the detailed provisions set forth in DC 7.1 – 7.6.

**DC 7.7.2** Results of *Doping Controls* shall be reported to FINA and WADA as provided in DC 14.1.3 and DC 14.1.4.

**DC 7.7.3** In circumstances where the rules of a *Member Federation* do not give the *Member Federation* authority over an *Athlete* or other *Person* who is not a national, resident, license holder, or member of a sport organization of that country, or the *Member Federation* declines to exercise such authority, such *Member Federation* shall, as soon as possible, report the results of such test or other anti-doping rule violation to FINA and to the *Member Federation* which normally exercises jurisdiction over such *Athlete*. That *Member Federation* will then conduct the appropriate results management and hearing procedures and impose the appropriate sanctions on the *Athlete*.

**DC 7.7.4** Any apparent anti-doping rule violation by an *Athlete* who is a member of that *Member Federation* shall be promptly referred to an appropriate hearing panel established pursuant to the rules of the *Member Federation* or national law.

**DC 7.7.5** If the FINA Executive determines a *Member Federation* with results management responsibility is not carrying out its results management responsibilities with respect to an apparent anti-doping rule violation in a sufficiently expeditious manner, the FINA Executive may, after conferring with and providing a warning to the *Member Federation*, transfer results management responsibilities for the apparent anti-doping rule violation to the *DCRB*. In any case where the FINA Executive transfers such results management responsibilities to the *DCRB*, the *Member Federation* shall cooperate fully and shall reimburse FINA for its costs in carrying out results management responsibilities. In any such case where the *DCRB* has conducted results management, any resulting hearing shall take place before the FINA Doping Panel.

**DC 7.7.6** In any case where *WADA* appeals directly to *CAS* under DC 13.3 based upon a *Member Federation's* failure to render a decision within a reasonable deadline set by *WADA*, FINA shall have the right to join in that appeal.

**DC 7.7.7** Where a *Member Federation* has results management responsibility for an *Atypical Finding*, the FINA Executive may demand that the investigation described under DC 7.2 and DC 7.3 be completed prior to a FINA *International Competition*. If the *Member Federation* does not comply with such demand, the FINA Executive may declare the *Athlete* Ineligible for the *International Competition* as a result of the pending *Atypical Finding* and/or may transfer results management responsibilities to the *DCRB*. In any such case where the *DCRB* has conducted results management, any resulting hearing shall take place before the FINA Doping Panel.

**DC 7.8** FINA reserves the right to exercise jurisdiction over results management, hearings and sanctioning with respect to any apparent anti-doping rule violation by any member of a *Member Federation* unless the *Code* specifically gives such jurisdiction to another *Signatory*.

## **DC 7.9 Provisional Suspensions**

### **DC 7.9.1 Mandatory Provisional Suspension**

The FINA Executive or *Member Federation* with results management responsibility shall impose a *Provisional Suspension* promptly after the review and notification described in DC 7.1 and 7.3 have been completed for an *Adverse Analytical Finding* involving a *Prohibited Method* or a *Prohibited Substance* other than a *Specified Substance*.

A mandatory *Provisional Suspension* may be eliminated if the *Athlete* demonstrates to the hearing panel that the violation is likely to have involved a *Contaminated Product*. A hearing body's decision not to eliminate a mandatory *Provisional Suspension* on account of the *Athlete's* assertion regarding a *Contaminated Product* shall not be appealable.

### **DC 7.9.2 Optional Provisional Suspension**



The FINA Executive after consultation with the *DCRB* or *Member Federation* with results management responsibility may also impose a *Provisional Suspension* on the *Athlete* or other *Person* against whom the anti-doping rule violation is asserted in case of any other anti-doping rule violations not covered by DC 7.9.1 (including in case of an *Adverse Analytical Finding* for a *Specified Substance*) and at any time after the review and notification described in DC 7.1 – 7.6 and prior to the final hearing as described in DC 8.

**DC 7.9.3** 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 DC 8 on a timely basis after imposition of a *Provisional Suspension*.

**DC 7.9.4** The FINA Executive may also provisionally suspend an *Athlete* in connection with a FINA *International Competition* where the circumstances satisfy the requirements herein but the *Member Federation* with results management responsibility has not imposed a *Provisional Suspension*. If a *Provisional Suspension* is imposed, the *Athlete* shall be given an opportunity for a *Provisional Hearing* before imposition of the *Provisional Suspension* or on a timely basis after imposition of the *Provisional Suspension*, or an opportunity for an expedited hearing in accordance with DC 8 on a timely basis after imposition of the *Provisional Suspension*.

**DC 7.9.5** If a *Provisional Suspension* is imposed based on an *A Sample Adverse Analytical Finding* and a subsequent *B Sample* analysis (if requested by the *Athlete* or *Anti-Doping Organization*) does not confirm the *A Sample* analysis, then the *Athlete* shall not be subject to any further *Provisional Suspension* on account of a violation of DC 2.1. In circumstances where the *Athlete* (or the *Athlete's* team) has been removed from a *Competition* based on violation of DC 2.1 and the subsequent *B Sample* analysis does not confirm the *A Sample* finding, then if it is still possible for the *Athlete* or team to be reinserted, without otherwise affecting the *Competition*, the *Athlete* or team may continue to take part in the *Competition*.

**DC 7.9.6** In all cases where an *Athlete* or other *Person* has been notified of an anti-doping rule violation but a *Provisional Suspension* has not been imposed on him or her, the *Athlete* or other *Person* shall be offered the opportunity to accept a *Provisional Suspension* voluntarily pending the resolution of the matter.

#### **DC 7.10 Resolution Without a Hearing**

**DC 7.10.1** An *Athlete* or other *Person* against whom an anti-doping rule violation is asserted may admit that violation at any time, and/or waive a hearing and/or file a written defence instead. The right to a hearing may be waived either expressly or by the *Athlete's* or other *Person's* failure to challenge an *Anti-Doping Organisation's* assertion that an anti-doping rule violation has occurred within the specific time period provided in the *Anti-Doping Organisation's* rules. An *Athlete* or other *Person* desiring to challenge the anti-doping rule violation must request a hearing before the FINA Doping Panel in writing within 14 days of notice alleging an anti-doping violation from the FINA Doping Panel Chairman.

**DC 7.10.2** In cases under DC 7.10.1 where a hearing has been waived or not timely requested, FINA or the *Member Federation* shall promptly issue a written decision setting out the full reasons for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential period of *Ineligibility* was not imposed. FINA or the *Member Federation* shall send copies of that decision to other *Anti-Doping Organizations* with a right to appeal under DC 13.2.3, and shall *Publicly Disclose* that decision in accordance with DC 14.3.2.

## DC 8 RIGHT TO A FAIR HEARING

**DC 8.1** When FINA has results management in a given matter in accordance with these Anti-Doping Rules and the *Code*, and FINA sends a notice to an *Athlete* or other *Person* asserting an anti-doping rule violation, if the *Athlete* or other *Person* does not waive a hearing in accordance with DC 7.10.1 or DC 7.10.2, then the case shall be referred to the FINA Doping Panel for hearing and adjudication.

This hearing shall respect the following principles:

- a timely hearing;
- a fair and impartial hearing body;
- the right to be represented by counsel at the *Person's* own expense;
- the right to be fairly and timely informed of the asserted anti-doping rule violation;
- the right to respond to the asserted anti-doping rule violation and resulting *Consequences*;
- 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);
- the *Person's* right to an interpreter at the hearing with the FINA Doping Panel to determine the identity, and responsibility for the cost of the interpreter; and
- a timely, written, reasoned decision; specifically including an explanation of the reason(s) for any period of *Ineligibility*.

Hearings held in connection with *Competitions* may be conducted by an expedited process.

*WADA* and the *Member Federation* of the *Athlete* or other *Person* may attend the hearing as observers.

The decision of the FINA Doping Panel shall be provided to the *Athlete* or other *Person* and all other parties with a right to appeal under DC 13.2.3.

**DC 8.2** Hearings arising out of *Member Federation* results management process.

**DC 8.2.1** When it appears, following a *Member Federation's* results management process described in DC 7, that an anti-doping rule violation has occurred, the *Member Federation* with results management authority shall provide the *Athlete* or other *Person* the opportunity for a fair hearing in a timely manner by a fair and impartial hearing panel. Hearings conducted by *Member Federations* shall respect the principles described in DC 8.1 above.

**DC 8.2.2** Hearings held in connection with *Competitions* may be conducted by an expedited process. FINA may request a *Member Federation* with results management responsibility to expedite a hearing in order to allow a final decision before the commencement of an *International Competition*.

**DC 8.2.3** FINA shall have the right to attend hearings conducted by a *Member Federation* as an observer. *Member Federations* shall keep FINA fully apprised as to the status of pending cases and the results of all hearings.

**DC 8.2.4** *Member Federations* shall provide a written decision, either by the *Member Federation's* hearing body, or by the *Member Federation* itself where a hearing has been waived, which sets out the full reasons for any period of *Ineligibility* imposed, including (if applicable) a justification for why the maximum potential period of *Ineligibility* was not imposed. The decision shall be submitted to all parties with a right to appeal described in DC 13.

**DC 8.2.5** Hearing decisions by the *Member Federation* shall not be subject to further administrative review at the national level except as provided in DC 13 or required by applicable national law.

**DC 8.2.6** If the completion of the hearing is delayed beyond three (3) months as of the completion of the results management process described in DC 7 or if a *Member Federation* refuses a hearing to an *Athlete* or other *Person*, FINA may elect to bring the case directly before the FINA Doping Panel. Where FINA assumes responsibility for results management under DC 7.7.5 and 7.7.7 or the hearing under DC 8.2.2, the *Member Federation* shall provide all requested documentation and shall be responsible for FINA's costs relating to the results management process or hearing. If the documentation exists in any language other than English or French, the *Member Federation* shall have such documentation translated to English.

### **DC 8.3 Single Hearing Before CAS**

Cases asserting anti-doping rule violations against *International-* or *National-Level Athletes* may be heard directly at CAS, with no requirement for a prior hearing, with the consent of the *Athlete*, FINA, WADA, and any other *Anti-Doping Organization* that would have had a right to appeal a first instance hearing decision to CAS.

*[Comment to DC 8.3: Where all of the parties identified in this rule are satisfied that their interests will be adequately protected in a single hearing, there is no need to incur the extra expense of two hearings. An Anti-Doping Organization that wants to participate in the CAS hearing as a party or as an observer may condition its approval of a single hearing on being granted that right.]*

## **DC 9 AUTOMATIC DISQUALIFICATION OF INDIVIDUAL RESULTS**

A violation of these Anti-Doping Rules in *Individual Sports* in connection with an *In-Competition* test automatically leads to *Disqualification* of the result obtained in that *Event* with all resulting *Consequences*, including forfeiture of any medals, points and prizes.

*[Comment to DC 9: For Team Sports, any awards received by individual players will be Disqualified. However, Disqualification of the Team will be as provided in DC 11. In sports which 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 also be as provided in DC 11.]*

## **DC 10 SANCTIONS ON INDIVIDUALS**

### **DC 10.1 *Disqualification of Results in the Competition during which an Anti-Doping Rule Violation Occurs***

An anti-doping rule violation occurring during or in connection with a *Competition* may, upon the decision of the ruling body of the *Competition*, lead to *Disqualification* of all of the *Athlete's* individual results obtained in that *Competition* with all *Consequences*, including forfeiture of all medals, points and prizes, except as provided in DC 10.1.1.

Factors to be included in considering whether to *Disqualify* other results in a *Competition* might include, for example, the severity of the *Athlete's* anti-doping rule violation and whether the *Athlete* tested negative in the other *Events*.

*[Comment to DC 10.1: Whereas DC 9 disqualifies the result in a single Event in which the Athlete tested positive (e.g., the 100 meter backstroke), this rule may lead to Disqualification of all results in all races during the Competition (e.g., the FINA World Championships).]*

**DC 10.1.1** If the *Athlete* establishes that he or she bears *No Fault or Negligence* for the violation, the *Athlete's* individual results in the other *Events* shall not be *Disqualified* unless the *Athlete's* results in *Events* other than the *Event* in which the anti-doping rule violation occurred were likely to have been affected by the *Athlete's* anti-doping rule violation.

### **DC 10.2 *Ineligibility for Presence, Use or Attempted Use, or Possession of a Prohibited Substance or Prohibited Method***

The period of *Ineligibility* imposed for a first violation of DC 2.1, 2.2 or 2.6 shall be as follows, subject to potential reduction or suspension of sanction pursuant to DC 10.4, 10.5 or 10.6:

**DC 10.2.1** The period of *Ineligibility* shall be four years where:

**DC 10.2.1.1** The anti-doping rule violation does not involve a *Specified Substance*, unless the *Athlete* or other *Person* can establish that the anti-doping rule violation was not intentional.

**DC 10.2.1.2** The anti-doping rule violation involves a *Specified Substance* and FINA or the *Member Federation* can establish that the anti-doping rule violation was intentional.

**DC 10.2.2** If DC 10.2.1 does not apply, the period of *Ineligibility* shall be two years.

**DC 10.2.3** As used in DC 10.2 and 10.3, the term "intentional" is meant to identify those *Athletes* who cheat. The term therefore requires that the *Athlete* or other *Person* engaged in conduct which he or she knew constituted an anti-doping rule violation or knew that there was a significant risk that the conduct might constitute or result in an anti-doping rule violation and manifestly disregarded that risk. An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall be rebuttably presumed to be not intentional if the substance is a *Specified Substance* and the *Athlete* can establish that the *Prohibited*

*Substance was Used Out-of-Competition.* An anti-doping rule violation resulting from an *Adverse Analytical Finding* for a substance which is only prohibited *In-Competition* shall not be considered intentional if the substance is not a *Specified Substance* and the *Athlete* can establish that the *Prohibited Substance* was *Used Out-of-Competition* in a context unrelated to sport performance.

### **DC 10.3 Ineligibility for other Anti-Doping Rule Violations**

The period of *Ineligibility* for anti-doping rule violations other than as provided in DC 10.2 shall be as follows, unless DC 10.5 or 10.6 are applicable:

**DC 10.3.1** For violations of DC 2.3 or DC 2.5, the *Ineligibility* period shall be four years unless, in the case of failing to submit to *Sample* collection the *Athlete* can establish that the commission of the anti-doping rule violation was not intentional (as defined in DC 10.2.3), in which case the period of *Ineligibility* shall be two years.

**DC 10.3.2** For violations of DC 2.4, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete's* degree of *Fault*. The flexibility between two years and one year of *Ineligibility* in this rule is not available to *Athletes* where a pattern of last-minute whereabouts changes or other conduct raises a serious suspicion that the *Athlete* was trying to avoid being available for *Testing*.

**DC 10.3.3** For violations of DC 2.7 or DC 2.8, the period of *Ineligibility* imposed shall be a minimum of four years up to lifetime *Ineligibility*, depending on the seriousness of the violation. A DC 2.7 or DC 2.8 violation involving a *Minor* shall be considered a particularly serious violation and, if committed by *Athlete Support Personnel* for violations other than for *Specified Substances* shall result in lifetime *Ineligibility* for the *Athlete Support Personnel*. In addition, significant violations of DC 2.7 or 2.8 which also may violate non-sporting laws and regulations, shall be reported to the competent administrative, professional or judicial authorities.

*[Comment to DC 10.3.3: Those who are involved in doping Athletes or covering up doping should be subject to sanctions which are more severe than the Athletes who test positive. Since the authority of sport organizations is generally limited to Ineligibility for accreditation, membership and other sport benefits, reporting Athlete Support Personnel to competent authorities is an important step in the deterrence of doping.]*

**DC 10.3.4** For violations of DC 2.9, the period of *Ineligibility* imposed shall be a minimum of two years, up to four years, depending on the seriousness of the violation.

**DC 10.3.5** For violations of DC 2.10, the period of *Ineligibility* shall be two years, subject to reduction down to a minimum of one year, depending on the *Athlete* or other *Person's* degree of *Fault* and other circumstances of the case.

*[Comment to DC 10.3.5: Where the "other Person" referenced in DC 2.10 is an entity and not an individual, that entity may be disciplined as provided in DC 12.]*

### **DC 10.4 Elimination of the Period of Ineligibility where there is No Fault or Negligence**

If an *Athlete* or other *Person* establishes in an individual case that he or she bears *No Fault or Negligence*, then the otherwise applicable period of *Ineligibility* shall be eliminated.

*[Comment to DC 10.4: DC 10.4 and DC 10.5.2 apply only to the imposition of sanctions; they are not applicable to the determination of whether an anti-doping rule violation has occurred. They will only apply in exceptional circumstances, for example where an Athlete could prove that, despite all due care, he or she was sabotaged by a competitor. Conversely, No Fault or Negligence would not apply in the following circumstances: (a) a positive test resulting from a mislabeled or contaminated vitamin or nutritional supplement (Athletes are responsible for what they ingest (DC 2.1.1) 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 under DC 10.5 based on No Significant Fault or Negligence.]*

#### **DC 10.5 Reduction of the Period of *Ineligibility* based on *No Significant Fault or Negligence***

**DC 10.5.1** Reduction of Sanctions for *Specified Substances* or *Contaminated Products* for Violations of DC 2.1, 2.2 or 2.6.

##### **DC 10.5.1.1** *Specified Substances*

Where the anti-doping rule violation involves a *Specified Substance*, and the *Athlete* or other *Person* can establish *No Significant Fault or Negligence*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and at a maximum, two years of *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*.

##### **DC 10.5.1.2** *Contaminated Products*

In cases where the *Athlete* or other *Person* can establish *No Significant Fault or Negligence* and that the detected *Prohibited Substance* came from a *Contaminated Product*, then the period of *Ineligibility* shall be, at a minimum, a reprimand and no period of *Ineligibility*, and at a maximum, two years *Ineligibility*, depending on the *Athlete's* or other *Person's* degree of *Fault*.

*[Comment to DC 10.5.1.2: In assessing that Athlete's degree of Fault, it would, for example, be favorable for the Athlete if the Athlete had declared the product which was subsequently determined to be Contaminated on his or her Doping Control form.]*

**DC 10.5.2** Application of *No Significant Fault or Negligence* beyond the Application of DC 10.5.1

If an *Athlete* or other *Person* establishes in an individual case where DC 10.5.1 is not applicable that he or she bears *No Significant Fault or Negligence*, then, subject to further reduction or elimination as provided in DC 10.6, the otherwise applicable period of *Ineligibility* may be reduced based on the *Athlete* or other *Person's* degree of *Fault*,

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 rule may be no less than eight years.

[Comment to DC 10.5.2: DC 10.5.2 may be applied to any anti-doping rule violation except those rules where intent is an element of the anti-doping rule violation (e.g., DC 2.5, 2.7, 2.8 or 2.9) or an element of a particular sanction (e.g., DC 10.2.1) or a range of *Ineligibility* is already provided in a rule based on the Athlete or other Person's degree of Fault.]

## **DC 10.6 Elimination, Reduction, or Suspension of Period of *Ineligibility* or other Consequences for Reasons Other than Fault**

### **DC 10.6.1 Substantial Assistance in Discovering or Establishing Anti-Doping Rule Violations**

**DC 10.6.1.1** The FINA Doping Panel or other *Anti-Doping Organisation* with results management responsibility may, prior to a final appellate decision under DC 13 or the expiration of the time to appeal, suspend a part of the period of *Ineligibility* imposed in an individual case in which it has results management authority where the *Athlete* or other *Person* has provided *Substantial Assistance* to FINA, a criminal authority or professional disciplinary body which results in: (i) FINA's discovering or bringing forward an anti-doping rule violation by another *Person*, or (ii) which results in a criminal or disciplinary body discovering or bringing forward a criminal offence or the breach of professional rules committed by another *Person* and the information provided by the *Person* providing *Substantial Assistance* is made available to FINA.

After a final appellate decision under DC 13 or the expiration of time to appeal, FINA may only suspend a part of the otherwise applicable period of *Ineligibility* with the approval of *WADA*. 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 years. If the *Athlete* or other *Person* fails to continue to cooperate and to provide the complete and credible *Substantial Assistance* upon which a suspension of the period of *Ineligibility* was based, FINA shall reinstate the original period of *Ineligibility*. If FINA decides to reinstate a suspended period of *Ineligibility* or decides not to reinstate a suspended period of *Ineligibility*, that decision may be appealed by any *Person* entitled to appeal under DC 13.

**DC 10.6.1.2** To further encourage *Athletes* and other *Persons* to provide *Substantial Assistance* to *Anti-Doping Organizations*, at the request of FINA or at the request of the *Athlete* or other *Person* who has (or has been asserted to have) committed an anti-doping rule violation, *WADA* may agree at any stage of the results management process, including after a final appellate decision

under DC 13, to what it considers to be an appropriate suspension of the otherwise-applicable period of *Ineligibility* and other *Consequences*. In exceptional circumstances, WADA may agree to suspensions of the period of *Ineligibility* and other *Consequences* for *Substantial Assistance* greater than those otherwise provided in this rule, or even no period of *Ineligibility*, and/or no return of prize money or payment of fines or costs. WADA's approval shall be subject to reinstatement of sanction, as otherwise provided in this rule. Notwithstanding DC 13, WADA's decisions in the context of this Article may not be appealed by any other *Anti-Doping Organization*.

**DC 10.6.1.3** If FINA suspends any part of an otherwise applicable sanction because of *Substantial Assistance*, then notice providing justification for the decision shall be provided to the other *Anti-Doping Organizations* with a right to appeal under DC 13.2.3 as provided in DC 14.2. In unique circumstances where WADA determines that it would be in the best interest of anti-doping, WADA may authorize FINA to enter into appropriate confidentiality agreements limiting or delaying the disclosure of the *Substantial Assistance* agreement or the nature of *Substantial Assistance* being provided.

*[Comment to DC 10.6.1: 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. This is the only circumstance under the Code and DC Rules where the suspension of an otherwise applicable period of Ineligibility is authorized.]*

**DC 10.6.2 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 which could establish an anti-doping rule violation (or, in the case of an anti-doping rule violation other than DC 2.1, before receiving first notice of the admitted violation pursuant to DC 7) 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.

*[Comment to DC 10.6.2: This rule 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 Organization 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. The amount by which Ineligibility is reduced should be based on the likelihood that the Athlete or other Person would have been caught had he or she not come forward voluntarily.]*

**DC 10.6.3** Prompt admission of an anti-doping rule violation after being confronted with a violation sanctionable under DC 10.2.1 or 10.3.1

An *Athlete* or other *Person* potentially subject to a four-year sanction under DC 10.2.1 or 10.3.1 (for evading or refusing *Sample* collection or tampering with *Sample* collection), by promptly admitting the asserted anti-doping rule violation after being confronted by FINA or *Member Federation*, and also upon the approval and at the



discretion of both WADA and FINA, may receive a reduction in the period of *Ineligibility* down to a minimum of two years, depending on the severity of the violation and the *Athlete* or other *Person's* degree of *Fault*.

#### **DC 10.6.4** Application of multiple grounds for reduction of a sanction

Where an *Athlete* or other *Person* establishes entitlement to reduction in sanction under more than one provision of DC 10.4, 10.5 or 10.6, before applying any reduction or suspension under DC 10.6, the otherwise applicable period of *Ineligibility* shall be determined in accordance with DC 10.2, 10.3, 10.4 and 10.5. If the *Athlete* or other *Person* establishes entitlement to a reduction or suspension of the period of *Ineligibility* under DC 10.6, then the period of *Ineligibility* may be reduced or suspended, but not below one-fourth of the otherwise applicable period of *Ineligibility*.

*[Comment to DC 10.6.4: The appropriate sanction is determined in a sequence of four steps. First, the hearing panel determines which of the basic sanctions (DC 10.2, DC 10.3, DC 10.4 or DC 10.5) applies to the particular anti-doping rule violation. Second, if the basic sanction provides for a range of sanction, the hearing panel must determine the applicable sanction within that range according to the Athlete or other Person's degree of Fault. In a third step, the hearing panel establishes whether there is a basis for elimination, suspension, or reduction of the sanction (DC 10.6). Finally, the hearing panel decides on the commencement of the period of Ineligibility under DC 10.11. Several examples of how DC 10 is to be applied are found in Appendix 2.]*

### **DC 10.7 Multiple Violations**

**DC 10.7.1** For an *Athlete* or other *Person's* second anti-doping rule violation, the period of *Ineligibility* shall be the greater of:

- (a) six months;
- (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under DC 10.6;
- (c) two times the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under DC 10.6.

The period of *Ineligibility* may then be further reduced by the application of DC 10.6.

**DC 10.7.2** A third anti-doping rule violation will always result in a lifetime period of *Ineligibility*, except if the third violation fulfills the condition for elimination or reduction of the period of *Ineligibility* under DC 10.4 or DC 10.5 or involves a violation of DC 2.4. In these particular cases, the period of *Ineligibility* shall be from eight years to lifetime *Ineligibility*.

**DC 10.7.3** An anti-doping rule violation for which an *Athlete* or other *Person* has established *No Fault or Negligence* shall not be considered a violation for purposes of this Rule.

#### **DC 10.7.4** Additional Rules for Certain Potential Multiple Violations.

**DC 10.7.4.1** For purposes of imposing sanctions under DC 10.7, an anti-doping rule violation will only be considered a second violation if FINA or a *Member*

*Federation* 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 DC 7, or after FINA or a *Member Federation* made reasonable efforts to give notice of the first anti-doping rule violation; if FINA or a *Member Federation* 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.

**DC 10.7.4.2** If, after the imposition of a sanction for a first anti-doping rule violation, FINA or a *Member Federation* discovers facts involving an anti-doping rule violation by the *Athlete* or other *Person* which occurred prior to notification regarding the first violation, then FINA or a *Member Federation* shall impose an additional sanction based on the sanction that could have been imposed if the two violations had 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 DC 10.8.

**DC 10.7.5 Multiple Anti-Doping Rule Violations During Ten-Year Period.**

For purposes of DC 10.7, each anti-doping rule violation must take place within the same ten-year period in order to be considered multiple violations.

**DC 10.8 *Disqualification of Results in Events* subsequent to *Sample Collection* or *Commission of an Anti-Doping Rule Violation***

In addition to the automatic *Disqualification* of the results in the *Event* which produced the positive *Sample* under DC 9, all other competitive results of the *Athlete* 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.

*[Comment to DC 10.8: Nothing in these Anti-Doping Rules 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 which they would otherwise have to seek damages from such Person.]*

**DC 10.9 Allocation of CAS Cost Awards and Forfeited Prize Money**

The priority for repayment of CAS cost awards and forfeited prize money shall be: first, payment of costs awarded by CAS; second, reallocation of forfeited prize money to other *Athletes*; and third, reimbursement of the expenses of FINA or the *Anti-Doping Organisation* that conducted results management in the case.

**DC 10.10 Financial Consequences**

Where an *Athlete* or other *Person* commits an anti-doping rule violation, FINA may, in its discretion and subject to the principle of proportionality, elect to (a) impose upon the *Athlete* or other *Person* recovery costs associated with the anti-doping rule violation, regardless of the period of *Ineligibility* imposed and/or (b) fine the *Athlete* or other *Person* in an amount up to ten thousand American dollars (USD 10'000), only in cases where the maximum period of *Ineligibility* otherwise applicable has already been imposed.

The imposition of a financial sanction or recovery of costs shall not be considered a basis for reducing the *Ineligibility* or other sanction which would otherwise be applicable under these Anti-Doping Rules or the *Code*.

#### **DC 10.11 Commencement of *Ineligibility* Period**

Except as provided below, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived or there is no hearing, on the date *Ineligibility* is accepted or otherwise imposed.

##### **DC 10.11.1 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*, the body imposing 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. All competitive results achieved during the period of *Ineligibility*, including retroactive *Ineligibility*, shall be *Disqualified*.

*[Comment to DC 10.11.1: In cases of anti-doping rule violations other than under DC 2.1, the time required for an Anti-Doping Organization to discover and develop facts sufficient to establish an anti-doping rule violation may be lengthy, particularly where the Athlete or other Person has taken affirmative action to avoid detection. In these circumstances, the flexibility provided in this rule to start the sanction at an earlier date should not be used.]*

##### **DC 10.11.2 Timely Admission.**

Where the *Athlete* or other *Person* promptly (which, in all events, means for an *Athlete* before the *Athlete* competes again) admits the anti-doping rule violation after being confronted with the anti-doping rule violation by FINA or a *Member Federation*, 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 rule 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 date the sanction is otherwise imposed. This rule shall not apply where the period of *Ineligibility* has already been reduced under DC 10.6.3.

**DC 10.11.3** If a *Provisional Suspension* is imposed and respected by the *Athlete* or the other *Person*, then the *Athlete* or the other *Person* shall receive a credit for such period of *Provisional Suspension* against any period of *Ineligibility* which may ultimately be imposed. If a period of *Ineligibility* is served pursuant to a decision that is subsequently appealed, then the *Athlete* or other *Person* shall receive a credit for such period of *Ineligibility* served against any period of *Ineligibility* which may ultimately be imposed on appeal.

**DC 10.11.4** If an *Athlete* or the other *Person* voluntarily accepts a *Provisional Suspension* in writing from FINA or a *Member Federation* and thereafter refrains from competing, the *Athlete* or the other *Person* shall receive a credit for such period of voluntary *Provisional Suspension* against any period of *Ineligibility* which may ultimately

be imposed. A copy of the *Athlete* or the other *Person's* voluntary acceptance of a *Provisional Suspension* shall be provided promptly to each party entitled to receive notice of an asserted anti-doping rule violation under DC 14.1.

*[Comment to DC 10.11.4: 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.]*

**DC 10.11.5** 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.

**DC 10.11.6** In *Team Sports*, where a period of *Ineligibility* is imposed upon a *Team*, unless fairness requires otherwise, the period of *Ineligibility* shall start on the date of the final hearing decision providing for *Ineligibility* or, if the hearing is waived, on the date *Ineligibility* is accepted or otherwise imposed. Any period of *Team Provisional Suspension* (whether imposed or voluntarily accepted) shall be credited against the total period of *Ineligibility* to be served.

*[Comment to DC 10.11: DC 10.11 makes 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 final hearing decision.]*

## **DC 10.12 Status during *Ineligibility***

**DC 10.12.1** Prohibition against participation during *Ineligibility*.

No *Athlete* or other *Person* (including *Athlete Support Personnel*) who has been declared *Ineligible* may, during the period of *Ineligibility*, participate in any capacity in a *Competition* or activity (other than authorized anti-doping education or rehabilitation programs) authorized or organized by FINA, any FINA *Member Federation*, or a club or other member organization of a FINA *Member Federation*, or in *Competitions* authorized or organized by any professional league or any international or national-level *Competition* organization or any elite or national-level sporting activity funded by a governmental agency.

An *Athlete* or other *Person* subject to a period of *Ineligibility* longer than four years may, after completing four years of the period of *Ineligibility*, participate as an *Athlete* in local sport *Competitions* not sanctioned or otherwise under the jurisdiction of a *Code Signatory* or member of a *Code Signatory*, but only so long as the local sport *Competition* 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 Competition*, and does not involve the *Athlete* or other *Person* working in any capacity with *Minors*.

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

*[Comment to DC 10.12.1: For example, subject to DC 10.12.2 below, an Ineligible Athlete cannot participate in a training camp, exhibition or practice organized by his or her Member Federation or a club which is a member of that Member Federation or*

*which is funded by a governmental agency. Further, an Ineligible Athlete may not compete in a non-Signatory professional league, Competitions organized by a non-Signatory International Competition organization or a non-Signatory national-level competition organization without triggering the Consequences set forth in DC 10.12.3. The term “activity” also includes, for example, administrative activities, such as serving as an official, director, officer, employee, or volunteer of the organization described in this rule. Ineligibility imposed in one sport shall also be recognized by other sports (see DC 15.1, Mutual Recognition).]*

#### **DC 10.12.2** Return for Training

As an exception to DC 10.12.1, an *Athlete* may return to train with a team or to use the facilities of a club or other member organization of FINA’s *Member Federation* during the shorter of: (1) the last two months of the *Athlete*’s period of *Ineligibility*, or (2) the last one-quarter of the period of *Ineligibility* imposed.

*[Comment to DC 10.12.2: In many Team Sports and some individual sports (e.g., ski jumping and gymnastics), an Athlete cannot effectively train on his or her own so as to be ready to compete at the end of the Athlete’s period of Ineligibility. During the training period described in this rule, an Ineligible Athlete may not compete or engage in any activity described in rule 10.12.1 other than training.]*

#### **DC 10.12.3** 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 DC 10.12.1, the results of such participation shall be *Disqualified* and a new period of *Ineligibility* equal in length up to the original period of *Ineligibility* shall be added to the end of the original period of *Ineligibility*. The new period of *Ineligibility* may be adjusted based on the *Athlete* or other *Person*’s degree of *Fault* and other circumstances of the case. The determination of whether an *Athlete* or other *Person* has violated the prohibition against participation, and whether an adjustment is appropriate, shall be made by FINA or the *Member Federation* whose results management led to the imposition of the initial period of *Ineligibility*. This decision may be appealed under DC 13.

Where an *Athlete Support Person* or other *Person* assists a *Person* in violating the prohibition against participation during *Ineligibility*, the FINA Doping Panel shall impose sanctions for a violation of DC 2.9 for such assistance.

#### **DC 10.12.4** Withholding of Financial Support during *Ineligibility*.

In addition, for any anti-doping rule violation not involving a reduced sanction as described in DC 10.4 or DC 10.5, the FINA Executive and its *Member Federations* shall withhold all sport-related financial support or other sport-related benefits received by such *Person*.

#### **DC 10.13** Automatic Publication of Sanction

A mandatory part of each sanction shall include automatic publication, as provided in DC 14.3.

*[Comment to DC 10: 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 harmonization 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, a standard period of Ineligibility has a much more significant effect on the Athlete than in sports where careers are traditionally much longer. A primary argument in favor of harmonization 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 organizations to be more lenient with dopers. The lack of harmonization of sanctions has also frequently been the source of jurisdictional conflicts between International Federations and National Anti-Doping Organizations.]*

## **DC 11 CONSEQUENCES TO TEAMS**

**DC 11.1** Where more than one member of a team in a *Team Sport* has been notified of an anti-doping rule violation under DC 7 in connection with a *Competition*, the ruling body for the *Competition* shall conduct appropriate *Target Testing* of the team during the *Competition Period*, with the costs for such *Target Testing* to be paid by the team's *Member Federation*.

**DC 11.2** Where any Anti-Doping Rule has been violated by a member of a relay in swimming, or team in open water swimming, or a duet or team in synchronised swimming or diving, the relay, duet or team shall be *Disqualified* from the *Competition*, with all resulting *Consequences* including forfeiture of any medals, points and prizes.

**DC 11.3** A water polo team, in which more than one player has committed a violation of these rules in connection with an *Event* (other than a violation involving a *Specified Substance* under DC 10.5.1.1 or *Contaminated Products* under DC 10.5.1.2), shall be *Disqualified* for the match(es) in the *Competition* in which those players took part, and the other team(s) shall be declared winner(s) with the score 5 - 0 unless the actual goal score was greater. Further sanction in regard to the team may be decided by FINA or the ruling body of the *Competition* in question.

## **DC 12 SANCTIONS AND COSTS ASSESSED AGAINST MEMBER FEDERATIONS AND OTHER PERSONS**

**DC 12.1** If four or more violations of these Anti-Doping Rules (other than violations involving DC 2.4 or, where DC 10.4 or DC 10.5.1.1 are applicable) are committed in the same discipline by *Athletes* affiliated to the same *Member Federation* within a 12-month period, then FINA: (a) may suspend the *Member Federation* in that discipline for a period of up to 2 years; and/or (b) may fine that *Member Federation* in an amount up to one hundred thousand American dollars (USD 100'000). A doping offence being under the jurisdiction of and reported to FINA by a *Member Federation* or its *National Anti-Doping Organisation* shall not be included under this rule. For the purposes of this rule, any fine paid pursuant to DC 12.2 shall be credited against any fine imposed pursuant to DC 12.1.

**DC 12.2** If more than one *Athlete* or other *Person* from a *Member Federation* commits an Anti-Doping Rule violation meeting the criteria set forth in DC 12.1 during an *International*

*Competitions*, FINA may fine that *Member Federation* in an amount up to one hundred-thousand American dollars (USD 100'000).

**DC 12.3** *Member Federations* shall be obliged to reimburse FINA for all costs (including but not limited to laboratory fees, interpretation and hearing expenses and travel) related to an anti-doping rule violation committed by a *Person* affiliated with that *Member Federation*.

**DC 12.4** *Member Federations* that have failed to make diligent efforts to keep FINA informed about *Athletes'* whereabouts after receiving a request for that information from FINA, may be fined by FINA in an amount up to one-thousand American dollars (USD 1'000) per *Athlete* in addition to all of FINA costs incurred in *Testing* that *Member Federation's Athlete*.

**DC 12.5** Except for costs and attorneys fees which may be awarded by CAS, FINA and its representatives shall not be liable to an *Athlete* or *Member Federation* for any cost, damage or other loss resulting from actions taken by FINA under these Anti-Doping Rules.

**DC 12.6** The FINA Executive shall withhold some or all funding or other non-financial support to a *Member Federation* upon a determination that the *Member Federation* is not substantially in compliance with these Anti-Doping Rules.

**DC 12.7** The FINA Executive may fine in an amount up to twenty-five thousand American dollars (USD 25'000) or otherwise sanction a *Member Federation* which fails to substantially comply with the reporting requirements of DC 14.

## DC 13 APPEALS

### DC 13.1 Decisions subject to appeal

Decisions made under these Anti-Doping Rules may be appealed as set forth below in DC 13.2 through 13.7 or as otherwise provided in these Anti-Doping Rules, the *Code* or the *International Standards*. Such decisions shall remain in effect while under appeal unless the appellate body orders otherwise. Before an appeal is commenced, any post-decision review provided in the *Anti-Doping Organization's* rules must be exhausted, provided that such review respects the principles set forth in DC 13.2.2 below (except as provided in DC 13.1.3 and DC 13.1.4).

#### DC 13.1.1 Scope of review not limited

The scope of review on appeal includes all issues relevant to the matter and is expressly not limited to the issues or scope of review before the initial decision maker.

#### DC 13.1.2 CAS shall not defer to the finding being appealed

In making its decision, CAS need not give deference to the discretion exercised by the body whose decision is being appealed.

*[Comment to DC 13.1.2: CAS proceedings are de novo. Prior proceedings do not limit the evidence or carry weight in the hearing before CAS.]*

#### DC 13.1.3 WADA not required to exhaust internal remedies

Where WADA has a right to appeal under DC 13 and no other party has appealed a final decision within FINA's or its *Member Federation's* process, WADA may appeal

such decision directly to CAS without having to exhaust other remedies in FINA's or its *Member Federation's* process.

*[Comment to DC 13.1.3: Where a decision has been rendered before the final stage of an Anti-Doping Organization's process (for example, after a first hearing) and no party elects to appeal that decision to the next level of the Anti-Doping Organization's process (e.g., the Managing Board), then WADA may bypass the remaining steps in the Anti-Doping Organization's internal process and appeal directly to CAS.]*

#### **DC 13.1.4 FINA not required to exhaust internal remedies**

Where FINA has a right to appeal under DC 13 and no other party has appealed a final decision within the *Member Federation's* process, FINA may appeal such decision directly to CAS without having to exhaust other remedies in the *Member Federation's* process.

### **DC 13.2 Appeals from decisions regarding Anti-Doping Rule violations, Consequences, Provisional Suspensions, recognition of decisions and jurisdiction**

A decision that an anti-doping rule violation was committed, a decision imposing *Consequences* or not 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 by WADA not to grant an exception to the six months' notice requirement for a retired *Athlete* to return to *Competition* under DC 5.5.2; a decision by WADA assigning results management under Article 7.1 of the *Code*; a decision by FINA or any *Member Federation* not to bring forward an *Adverse Analytical Finding* or an *Atypical Finding* as an anti-doping rule violation, or a decision not to go forward with an anti-doping rule violation after an investigation under DC 7.5; a decision to impose a *Provisional Suspension* as a result of a *Provisional Hearing* or for FINA or a *Member Federation's* failure to comply with DC 7.9; a decision that FINA or a *Member Federation* lack jurisdiction to rule on an alleged anti-doping rule violation or its *Consequences*; a decision to suspend, or not suspend, a period of *Ineligibility* or to reinstate, or not reinstate, a suspended period of *Ineligibility* under DC 10.6.1; a decision under DC 10.12.3; and a decision by FINA or *Member Federation* not to recognize another *Anti-Doping Organization's* decision under DC 15, may be appealed exclusively as provided in this DC 13.2 – 13.7.

#### **DC 13.2.1 Appeals involving *International-Level Athletes* or *International Competitions***

In cases arising from participation in an *International Competition* or in cases involving *International-Level Athletes*, the decision may be appealed exclusively to CAS in accordance with the provisions applicable before such court.

*[Comment to DC 13.2.1: CAS decisions are final and binding except for any review required by law applicable to the annulment or enforcement of arbitral awards.]*

#### **DC 13.2.2 Appeals involving other *Athletes* or other *Persons***

In cases where DC 13.2.1 is not applicable, each *Member Federation* shall have in place an appeal procedure that respects the following principles: a timely hearing, a fair and impartial hearing body; the right to be represented by a counsel at the *Person's* own expense; and a timely, written, reasoned decision. FINA's rights to appeal from



hearing decisions by *Member Federations* are set forth in DC 13.2.3 and DC 13.7 below.

#### **DC 13.2.3** *Persons* entitled to appeal

In cases under DC 13.2.1, the following parties shall have the right to appeal to 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) FINA; (d) the *National Anti-Doping Organisation* of the *Person's* country of residence or countries where the *Person* is a national or license holder; (e) the International Olympic Committee or International Paralympic Committee, as applicable, where the decision may have an effect in relation to the Olympic Games, including decisions affecting eligibility for the Olympic Games or Paralympic Games; and (f) WADA.

In cases under DC 13.2.2, and without prejudice to WADA's and FINA's right to appeal directly to the CAS in accordance with DC 13.1.3 and DC 13.1.4, the parties having the right to appeal to the national-level appeal body shall be as provided in the *Member Federation's* or other national rules 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) FINA; (d) the *National Anti-Doping Organization* of the *Person's* country of residence; (e) 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; and (f) WADA. For cases under Article 13.2.2, WADA, the International Olympic Committee, the International Paralympic Committee, and FINA shall also have the right to appeal to CAS with respect to the decision of the national-level appeal body. 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.

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

#### **DC 13.2.4** Cross Appeals and other Subsequent Appeals Allowed

Cross appeals and other subsequent appeals by any respondent named in cases brought to CAS under the *Code* are specifically permitted. Any party with a right to appeal under this DC 13 must file a cross appeal or subsequent appeal at the latest with the party's answer.

*[Comment to DC 13.2.4: This provision is necessary because since 2011, CAS rules no longer permit an Athlete the right to cross appeal when an Anti-Doping Organization appeals a decision after the Athlete's time for appeal has expired. This provision permits a full hearing for all parties.]*

#### **DC 13.3** Failure to render a timely decision

Where, in a particular case, FINA or its *Member Federations* fail 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 FINA or its *Member Federations* had rendered a decision finding no anti-doping rule violation. If the CAS hearing panel determines that an anti-doping rule violation was committed and that WADA acted reasonably in electing to appeal directly to CAS, then WADA's costs and attorneys fees in prosecuting the appeal shall be reimbursed to WADA by FINA or its *Member Federations*.

*[Comment to DC 13.3: 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 Organization 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 Organization and give the Anti-Doping Organization an opportunity to explain why it has not yet rendered a decision.]*

#### **DC 13.4 Appeals relating to TUEs**

TUE decisions may be appealed exclusively as provided in DC 4.4 above.

#### **DC 13.5 Notification of appeal decisions**

Any *Anti-Doping Organisation* that is a party to an appeal shall promptly provide the appeal decision to the *Athlete* or other *Person* and to the other *Anti-Doping Organisations* that would have been entitled to appeal under DC 13.2.3 as provided under DC 14.2.

#### **DC 13.6 Appeal from decisions pursuant to DC 12.**

Decisions by FINA pursuant to DC 12 may be appealed exclusively to CAS by the concerned *Member Federation*.

#### **DC 13.7 Time for Filing Appeals**

##### **DC 13.7.1 Appeals to CAS**

The deadline to file an appeal to CAS shall be twenty-one (21) days from the date of receipt of the decision by the appealing party. The above notwithstanding, the following shall apply in connection with appeals filed by a party entitled to appeal but which was not a party to the proceedings that led to a decision being appealed:

- a) Within a deadline of fifteen (15) days from receipt of the decision, the party/ies entitled to appeal can request a copy of the complete case file from the body that issued the decision, including the motivation of the decision and, if the proceedings took place in another language, a translation in one of FINA's official languages (English or French) of the decision and of the motivation, as well as of any document which is necessary to understand the content of the decision.
- b) If such a request is made within the fifteen-day period, then the party making such request shall have twenty-one (21) days from the receipt of the full file, including translations, to file an appeal to CAS.

The above notwithstanding, the filing deadline for an appeal filed by WADA shall be the later 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 *WADA's* receipt of the complete file relating to the decision.

Similarly, the filing deadline for an appeal by FINA shall be in any event the later of:

- a) Twenty-one (21) days after the last day on which any other party (except *WADA*) could have appealed before *CAS*; or
- b) Twenty-one (21) days from the day of receipt of the complete file relating to the decision.

#### **DC 13.7.2 Appeals Under DC 13.2.2**

The time to file an appeal to an independent and impartial body established at national level in accordance with rules established by the *Anti-Doping Organisation* shall be indicated by the same rules of the *Anti-Doping Organisation*.

The above notwithstanding, the filing deadline for an appeal filed by *WADA* shall be the later 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 *WADA's* receipt of the complete file relating to the decision.

Similarly, the filing deadline for an appeal by FINA shall be in any event the later of:

- a) Twenty-one (21) days after the last day on which any other party (except *WADA*) could have appealed before a national reviewing body; or
- b) Twenty-one (21) days from the day of receipt of the complete file relating to the decision.

### **DC 14 CONFIDENTIALITY AND REPORTING**

#### **DC 14.1 Information Concerning *Adverse Analytical Findings, Atypical Findings, and Other Asserted Anti-Doping Rule Violations***

##### **DC 14.1.1** Notice of anti-doping rule violations to *Athletes* and other *Persons*

Notice to *Athletes* or other *Persons* of anti-doping rule violations asserted against them shall occur as provided under DC 7 and DC 14. FINA's notice to an *Athlete* or other *Person* who is a member of a *Member Federation* may be accomplished by delivery of the notice to the *Member Federation*.

##### **DC 14.1.2** Notice of anti-doping rule violations to *National Anti-Doping Organisations, FINA and WADA*

The *Anti-Doping Organisation* with results management responsibility shall also notify the *Athlete's National Anti-Doping Organisations, FINA and WADA* of the assertion of an anti-doping rule violation simultaneously with the notice to the *Athlete* or other *Person*.

##### **DC 14.1.3** Content of an anti-doping rule violation notice

When a *Member Federation* has received an *Adverse Analytical Finding* on one of its *Athletes*, it shall report the following information to FINA and WADA within fourteen (14) days of the process described in DC 7.1 (Article 7.2 of the *Code*): the *Athlete's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, whether the test was *In-Competition* or *Out-of-Competition*, the date of *Sample* collection, the analytical result reported by the laboratory, and other information as required by the International Standard for Testing and Investigations. With respect to *Atypical Findings*, a *Member Federation* shall report the same information to FINA and WADA within fourteen (14) days after completion of its investigation as provided in DC 7.2 (Article 7.4 of the *Code*) (except as otherwise provided in DC 7.2.4(b) or Article 7.4.1(b) of the *Code*), including whether the *Atypical Finding* will be brought forward as an *Adverse Analytical Finding*. When a *Member Federation* has determined an apparent anti-doping rule violation other than under DC 2.1, it shall report the following information to FINA and WADA within fourteen (14) days of the notification to the *Athlete* or other *Person*: the *Athlete's* or other *Person's* name, country, sport and discipline within the sport, the *Athlete's* competitive level, the rule violated and the basis of the asserted violation.

#### **DC 14.1.4 Status reports**

The *Member Federation* shall also regularly update FINA and WADA on the status and findings of any review or proceedings conducted pursuant to DC 7, DC 8 or DC 13

#### **DC 14.1.5 Confidentiality**

The recipient organisations (be it FINA, WADA, *Member Federation* or *National Anti-Doping Organisation*) shall not disclose this information beyond those *Persons* within their organisations with a need to know until the appropriate results management authority has made *Public Disclosure* or has failed to make *Public Disclosure* as required in DC 14.3 below.

### **DC 14.2 Notice of Anti-Doping Rule Violation Decisions and Request for Files**

**DC 14.2.1** Anti-doping rule violation decisions rendered pursuant to DC 8, 10.4, 10.5, 10.6, 10.12.3 or 13.5 shall include the full reasons for the decision, including, if applicable, a justification for why the maximum potential sanction was not imposed. Where the decision is not in English or French, FINA or its *Member Federation* (or *National Anti-Doping Organisation*, as applicable) shall provide a short English or French summary of the decision and the supporting reasons. Decisions shall be reported to the *Athlete* or other *Person* and their *Member Federations* or *National Anti-Doping Organisations*, FINA and WADA within 20 days of the date the decision is rendered.

**DC 14.2.2** An *Anti-Doping Organization* having a right to appeal a decision received pursuant to DC 14.2.1 or Article 14.2.1 of the *Code* may, within 15 days of receipt, request a copy of the complete case file pertaining to the decision.

#### **DC 14.3 Public Disclosure**

**DC 14.3.1** Except in response to public comments attributed to the *Athlete*, other *Person* or their representatives, the identity of any *Athlete* or other *Person* who is

alleged to have violated anti-doping rules, shall not be publicly disclosed by FINA until the imposition of a *Provisional Suspension* or it has been determined in a hearing in accordance with DC 8 that an anti-doping rule violation has occurred, or such hearing has been waived, or the assertion of an anti-doping rule violation has not been timely challenged. *Public Reporting* where a *Member Federation* has results management authority shall be governed by Article 14.3 of the *Code*.

**DC 14.3.2** No later than twenty (20) days after it has been determined in a hearing in accordance with DC 8 that an anti-doping rule violation has occurred, or such hearing has been waived, or the assertion of an anti-doping rule violation has not been timely challenged, FINA or the *Member Federation* responsible for results management must *Publicly Report* the disposition of the 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 (if any) and the *Consequences* imposed. The same *Member Federation* must also *Publicly Report* within twenty (20) days the results of final appeal decisions concerning anti-doping rule violations, including the information described above.

**DC 14.3.3** 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. FINA or the *Member Federation* with results management responsibility shall use reasonable efforts to obtain such consent. If consent is obtained, FINA or the *Member Federation* shall *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

**DC 14.3.4** Publication shall be accomplished at a minimum by placing the required information on FINA or *Member Federation's* website or publishing it through other means and leaving the information up for the longer of one month or the duration of any period of *Ineligibility*.

**DC 14.3.5** Neither FINA, nor its *Member Federations*, nor any official of either body shall publicly comment on the specific facts of any pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete* or other *Person* against whom an anti-doping violation is asserted, or their representatives.

**DC 14.3.6** The mandatory *Public Reporting* required in DC 14.3.2 shall not be required where the *Athlete* or other *Person* who has been found to have committed an anti-doping rule violation is a *Minor*. Any optional *Public Reporting* in a case involving a *Minor* shall be proportionate to the facts and circumstances of the case.

#### **DC 14.4 Statistical reporting**

**DC 14.4.1** *Member Federations* shall report at least annually all results of *Doping Controls* within their jurisdiction to FINA, sorted by *Athlete* and identifying each date on which the *Athlete* was tested, the entity conducting the test, and whether the test was *In-* or *Out-of-Competition*.

#### **DC 14.5 Doping Control Information Clearinghouse**

To facilitate coordinated Test Distribution Planning and to avoid unnecessary duplication in *Testing* by the various *Anti-Doping Organisations*, FINA may report all *In-Competition* and *Out-of-Competition* tests on *Athletes Tested* by FINA to the WADA clearinghouse, using ADAMS, as soon as possible after such tests have been conducted. This information will be made accessible, where appropriate and in accordance with the applicable rules, to the *Athlete*, the *Athlete's National Anti-Doping Organisation* and any other *Anti-Doping Organisations* with *Testing* authority over the *Athlete*.

#### **DC 14.6 Data Privacy**

**DC 14.6.1** FINA or its *Member Federations* may collect, store, process or disclose personal information relating to *Athletes* and other *Persons* where necessary and appropriate to conduct their anti-doping activities under the *Code*, the *International Standards* (including specifically the International Standard for the Protection of Privacy and Personal Information) and these Anti-Doping Rules.

**DC 14.6.2** Any *Participant* who submits information including personal data to any *Person* in accordance with these Anti-Doping Rules shall be deemed to have agreed, pursuant to applicable data protection laws and otherwise, that such information may be collected, processed, disclosed and used by such *Person* for the purposes of the implementation of these Anti-Doping Rules, in accordance with the International Standard for the Protection of Privacy and Personal Information and otherwise as required to implement these Anti-Doping Rules.

#### **DC 15 APPLICATION AND RECOGNITION OF DECISIONS**

**DC 15.1** Subject to the right to appeal provided in DC 13, the *Testing*, 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 applicable worldwide and shall be recognised and respected by FINA and its *Member Federations*.

*[Comment to DC 15.1: The extent of recognition of TUE decisions of other Anti-Doping Organisations shall be determined by DC 4.4 and the International Standard for Therapeutic Use Exemptions.]*

**DC 15.2** FINA and its *Member Federations* shall recognize measures taken by other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*.

*[Comment to DC 15.2: Where the decision of a body that has not accepted the Code is in some respects Code compliant and in other respects not Code compliant, FINA and its Member Federations shall attempt to apply the decision in harmony with the principles of the Code. For example, if in a process consistent with the Code, a non-Signatory has found an Athlete to have committed an anti-doping rule violation on account of the presence of a Prohibited Substance in his or her body but the period of Ineligibility applied is shorter than the period provided for in these Anti-Doping Rules, then FINA shall recognize the finding of an anti-doping rule violation and may conduct a hearing consistent with DC 8 to determine whether the longer period of Ineligibility provided in these Anti-Doping Rules should be imposed.]*

**DC 15.3** Subject to the right to appeal provided in DC 13, any decision of FINA regarding a violation of these Anti-Doping Rules shall be recognized by all *Member Federations*, which shall take all necessary action to render such decision effective.

## **DC 16 INCORPORATION OF FINA ANTI-DOPING RULES AND OBLIGATIONS OF MEMBER FEDERATIONS**

**DC 16.1** All *Member Federations* and their members shall comply with these Anti-Doping Rules. The regulations of *Member Federations* shall indicate that all FINA Rules including these Anti-Doping Rules shall be deemed as incorporated into and shall be directly applicable to and shall be agreed to and followed by all of the *Athletes*, *Athlete Support Personnel* and other *Persons* described in the “Scope” provision of these Anti-Doping Rules.

**DC 16.2** All *Member Federations* shall include in their regulations the procedural rules necessary to effectively implement these Anti-Doping Rules including in particular the determination of the *Person/s* or body in charge of the application of the rules.

**DC 16.3** All *Member Federations* shall report any information suggesting or relating to an anti-doping rule violation to FINA and to their *National Anti-Doping Organisations*, and shall cooperate with investigations conducted by any *Anti-Doping Organisation* with authority to conduct the investigation.

**DC 16.4** All *Member Federations* shall have disciplinary rules in place to prohibit *Athlete Support Personnel* who are *Using Prohibited Substances or Prohibited Methods* without valid justification from providing support to *Athletes* under the jurisdiction of FINA or the *Member Federation*.

**DC 16.5** All *Member Federations* shall be required to conduct anti-doping education in coordination with their *National Anti-Doping Organizations*.

**DC 16.6** As used in this Article, the term *Member Federation* shall only mean the member organisations of FINA and shall not include their *National Anti-Doping Organisations* or *Regional Anti-Doping Organisations*.

## **DC 17 STATUTE OF LIMITATIONS**

No anti-doping rule violation proceeding may be commenced under these Anti-Doping Rules against an *Athlete* or other *Person*, unless he or she has been notified of the anti-doping rule violation as provided in DC 7, or notification has been reasonably attempted within ten years from the date the violation is asserted to have occurred.

## **DC 18 FINA COMPLIANCE REPORTS TO WADA**

FINA will report to *WADA* on FINA's compliance with the *Code* in accordance with Article 23.5.2 of the *Code*.

## **DC 19 EDUCATION**

FINA should plan, implement, evaluate and monitor information, education and prevention programs for doping-free sport on at least the issues listed at Article 18.2 of the *Code*, and should support active participation by *Athletes* and *Athlete Support Personnel* in such programs.

## DC 20 INTERPRETATION OF ANTI-DOPING RULES

**DC 20.1** Except as provided in DC 20.4, these Anti-Doping Rules shall be interpreted as an independent and autonomous text and not by reference to existing law or statutes.

**DC 20.2** The headings used for the various parts and articles of these Anti-Doping Rules are for convenience only and shall not be deemed part of the substance of these Anti-Doping Rules or to affect in any way the language of the provisions to which they refer.

**DC 20.3** The *Code* and the *International Standards* shall be considered integral parts of these Anti-Doping Rules.

**DC 20.4** These Anti-Doping Rules have been adopted pursuant to the applicable provisions of the *Code*. These Anti-Doping Rules shall be interpreted in a manner that is consistent with applicable provisions of the *Code*. The Introduction shall be considered an integral part of these Anti-Doping Rules.

**DC 20.5** The comments annotating various provisions of the *Code* and these Anti-Doping Rules shall be used to interpret these Anti-Doping Rules.

**DC 20.6** These Anti-Doping Rules have come into full force and effect on January 1, 2015 (the “Effective Date”). They shall not apply retroactively to matters pending before the Effective Date; provided, however, that:

**DC 20.6.1** Anti-doping rule violations taking place prior to the Effective Date count as “first violations” or “second violations” for purposes of determining sanctions under DC 10 for violations taking place after the Effective Date.

**DC 20.6.2** The retrospective period in which prior violations can be considered for purposes of multiple violations under DC 10.7.5 and the statute of limitations set forth in DC 17 are procedural rules and should be applied retroactively; provided, however, that DC 17 shall only be applied retroactively if the statute of limitations period has not already expired by the Effective Date. Otherwise, with respect to any anti-doping rule violation case which is pending as of the Effective Date and any anti-doping rule violation case brought after the Effective Date based on an anti-doping rule violation which occurred prior to the Effective Date, the case shall be governed by the substantive anti-doping rules in effect at the time the alleged anti-doping rule violation occurred unless the panel hearing the case determines the principle of *lex mitior* appropriately applies under the circumstances of the case.

**DC 20.6.3** Any DC 2.4 whereabouts failure (whether a Filing Failure or a Missed Test, as those terms are defined in the International Standard for Testing and Investigations) prior to the Effective Date shall be carried forward and may be relied upon, prior to expiry, in accordance with the International Standard for Testing and Investigation, but it shall be deemed to have expired 12 months after it occurred.

**DC 20.6.4** With respect to cases where a final decision finding an anti-doping rule violation has been rendered prior to the Effective Date, but the *Athlete* or other *Person* is still serving the period of *Ineligibility* as of the Effective Date, the *Athlete* or other *Person* may apply to FINA or the *Member Federation* which had results management responsibility for the anti-doping rule violation to consider a reduction in the period of *Ineligibility* in light of these Anti-Doping Rules. Such application must be made before



the period of *Ineligibility* has expired. The decision rendered by FINA or the *Member Federation* may be appealed pursuant to DC 13. These Anti-Doping Rules shall have no application to any case where a final decision finding an anti-doping rule violation has been rendered and the period of *Ineligibility* has expired.

**DC 20.6.5** For purposes of assessing the period of *Ineligibility* for a second violation under DC 10.7.1, where the sanction for the first violation was determined based on rules in force prior to the Effective Date, the period of *Ineligibility* which would have been assessed for that first violation had these Anti-Doping Rules been applicable, shall be applied.

## **DC 21 ADDITIONAL ROLES AND RESPONSIBILITIES OF ATHLETES AND OTHER PERSONS**

### **DC 21.1 Roles and Responsibilities of *Athletes***

**DC 21.1.1** To be knowledgeable of and comply with these Anti-Doping Rules.

**DC 21.1.2** To be available for *Sample* collection at all times.

**DC 21.1.3** To take responsibility, in the context of anti-doping, for what they ingest and *Use*.

**DC 21.1.4** To inform medical personnel of their obligation not to *Use Prohibited Substances* or *Prohibited Methods* and to take responsibility to make sure that any medical treatment received does not violate these Anti-Doping Rules.

**DC 21.1.5** To disclose to their *National Anti-Doping Organization* and to FINA any decision by a non-*Signatory* finding that the *Athlete* committed an anti-doping rule violation within the previous ten years.

**DC 21.1.6** To cooperate with *Anti-Doping Organizations* investigating anti-doping rule violations. Failure by any *Athlete* to cooperate in full with FINA, *Member Federation* or other *Anti-Doping Organisation* investigating anti-doping rule violations shall be a violation of FINA's disciplinary rules and may result in proceedings before the FINA Disciplinary Panel.

### **DC 21.2 Roles and Responsibilities of *Athlete Support Personnel***

**DC 21.2.1** To be knowledgeable of and comply with these Anti-Doping Rules.

**DC 21.2.2** To cooperate with the *Athlete Testing* program.

**DC 21.2.3** To use their influence on *Athlete* values and behavior to foster anti-doping attitudes.

**DC 21.2.4** To disclose to his or her *National Anti-Doping Organization* and to FINA any decision by a non-*Signatory* finding that he or she committed an anti-doping rule violation within the previous ten years.

**DC 21.2.5** To cooperate with *Anti-Doping Organizations* investigating anti-doping rule violations. Failure by any *Athlete Support Personnel* to cooperate in full with FINA, *Member Federation* or other *Anti-Doping Organisation* investigating anti-doping rule



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violations shall be a violation of FINA's disciplinary rules and may result in proceedings before the FINA Disciplinary Panel.

## APPENDIX 1

### DEFINITIONS APPLICABLE TO DOPING CONTROL RULES

**ADAMS:** The Anti-Doping Administration and Management System is a Web-based database management tool for data entry, storage, sharing, and reporting designed to assist stakeholders and WADA in their anti-doping operations in conjunction with data protection legislation.

**Administration:** Providing, supplying, supervising, facilitating, or otherwise participating in the *Use* or *Attempted Use* by another *Person* of a *Prohibited Substance* or *Prohibited Method*. However, this definition shall not include the actions of bona fide medical personnel involving a *Prohibited Substance* or *Prohibited Method* used for genuine and legal therapeutic purposes or other acceptable justification and shall not include actions involving *Prohibited Substances* which are not prohibited in *Out-of-Competition Testing* unless the circumstances as a whole demonstrate that such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**Adverse Analytical Finding:** A report from a WADA-accredited 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*.

**Adverse Passport Finding:** A report resulting from the process set forth in the applicable Technical Document or Guideline which concludes that the analytical results reviewed are inconsistent with a normal physiological condition or known pathology and compatible with the *Use* of a *Prohibited Substance* or *Prohibited Method*.

**Anti-Doping Organization:** A *Signatory* to the *Code* 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/Competitions*, WADA, International Federations, and *National Anti-Doping Organisations*.

**Athlete:** Any *Person* who competes in sport at the international level (as defined by each International Federation), or the national level (as defined by each *National Anti-Doping Organization*). An *Anti-Doping Organization* has discretion to apply anti-doping rules to an *Athlete* who is neither an *International-Level Athlete* nor a *National-Level Athlete*, and thus to bring them within the definition of "Athlete." In relation to *Athletes* who are neither *International-Level* nor *National-Level Athletes*, an *Anti-Doping Organization* may elect to: conduct limited *Testing* or no *Testing* at all; analyze *Samples* for less than the full menu of *Prohibited Substances*; require limited or no whereabouts information; or not require advance *TUEs*. However, if an Article 2.1, 2.3 or Article 2.5 anti-doping rule violation is committed by any *Athlete* over whom an *Anti-Doping Organization* has authority who competes below the international or national level, then the *Consequences* set forth in the *Code* (except Article 14.3.2) must be applied. For purposes of Article 2.8 and Article 2.9 and for purposes of anti-doping information and education, any *Person* who competes in sport under the authority of any *Signatory*, government, or other sports organization accepting the *Code* is an *Athlete*.

*[Comment: This definition makes it clear that all International- and National-Level Athletes are subject to the anti-doping rules of the Code, with the precise definitions of international- and national -level sport to be set forth in the anti-doping rules of the International Federations and National Anti-Doping Organizations, respectively. The definition also allows each National Anti-Doping Organization, if it chooses to do so, to expand its anti-doping program beyond International- or National-Level Athletes to competitors at lower levels of Competition or to individuals who engage in fitness activities but do not compete at all. Thus, a National Anti-Doping Organization could, for example, elect to test recreational-level competitors but not require advance TUEs. But an anti-doping rule violation involving an Adverse Analytical Finding or Tampering results in all of the Consequences provided for in the Code (with the exception of Article 14.3.2). The decision on whether Consequences apply to recreational-level Athletes who engage in fitness activities but never compete is left to the National Anti-Doping Organization. In the same manner, a Major Event Organization holding an Event only for masters-level competitors could elect to test the competitors but not analyze Samples for the full menu of Prohibited Substances. Competitors at all levels of Competition should receive the benefit of anti-doping information and education.]*

**Athlete Biological Passport:** The program and methods of gathering and collating data as described in the International Standard for Testing and Investigations and International Standard for Laboratories.

**Athlete Support Personnel:** Any coach, trainer, manager, agent, team staff, official, medical, paramedical 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* renounces the *Attempt* prior to it being discovered by a third party not involved in the *Attempt*.

**Atypical Finding:** A report from a WADA-accredited laboratory or other WADA-approved laboratory which requires further investigation as provided by the International Standard for Laboratories or related Technical Documents prior to the determination of an *Adverse Analytical Finding*.

**Atypical Passport Finding:** A report described as an *Atypical Passport Finding* as described in the applicable *International Standards*.

**CAS:** The Court of Arbitration for Sport.

**Code:** The World Anti-Doping Code.

**Competition:** A series of individual *Events* conducted together under one ruling body (e.g. FINA World Championships). Also, the act of participating in an *Event*.<sup>2</sup>

**Competition Period:** The time between the beginning of the opening ceremonies and the end of the closing ceremonies for a *Competition*.

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<sup>2</sup> This definition has been changed from the *Code* definition in order to be consistent with other FINA Rules. Under FINA Rules, a “Competition” is the same as an “Event” under the *Code*.

**Competition Venue / Event Venue:** Those venues so designated by the ruling body for the *Competition / Event*.

**Consequences of Anti-Doping Rules Violations (“Consequences”):** An *Athlete’s* or other *Person’s* violation of an anti-doping rule may result in one or more of the following: (a) *Disqualification* means the *Athlete’s* results in a particular *Competition* or *Event* are invalidated, with all resulting consequences including forfeiture of any medals, points and prizes; (b) *Ineligibility* means the *Athlete* or other *Person* is barred on account of anti-doping rule violation for a specified period of time from participating in any *Event*, *Competition* or other activity or funding as provided in DC 10.12.1; and (c) *Provisional Suspension* means the *Athlete* or other *Person* is barred temporarily from participating in any *Event*, *Competition* or activity prior to the final decision at a hearing conducted under DC 8; (d) *Financial Consequences* means a CAS cost award or a financial sanction imposed for an anti-doping rule violation or to recover costs associated with an anti-doping rule violation; and (e) *Public Disclosure or Reporting* means the disclosure of information related to anti-doping rule violations as provided in DC 14. *Teams* in *Team Sports* may also be subject to *Consequences* as provided in DC 11.

**Contaminated Product:** A product that contains a *Prohibited Substance* that is not disclosed on the product label or in information available in a reasonable Internet search.

**Disqualification:** See *Consequences of Anti-Doping Rules Violations* above.

**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, therapeutic use exemptions, results management, and hearings.

**DCRB:** Doping Control Review Board.

**Event:** A single race, match, game or singular sport contest.<sup>3</sup>

**Fault:** *Fault* is any breach of duty or any lack of care appropriate to a particular situation. Factors to be taken into consideration in assessing an *Athlete* or other *Person’s* degree of *Fault* include, for example, the *Athlete’s* or other *Person’s* experience, whether the *Athlete* or other *Person* is a *Minor*, special considerations such as disability, the degree of risk that should have been perceived by the *Athlete* and the level of care and investigation exercised by the *Athlete* in relation to what should have been the perceived level of risk. 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 behavior. 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 Article 10.5.1 or 10.5.2.

[*Comment: The criteria for assessing an Athlete’s degree of Fault is the same under all Articles where Fault is to be considered. However, under DC 10.5.2, no reduction of sanction is appropriate unless, when the degree of Fault is assessed, the conclusion is that No Significant Fault or Negligence on the part of the Athlete or other Person was involved.*]

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<sup>3</sup> This definition has been changed from the *Code* definition in order to be consistent with other FINA Rules. Under FINA Rules, an “Event” is the same as a “Competition” under the *Code*.

***In-Competition:*** For purposes of differentiating between *In-Competition* and *Out-of-Competition Testing*, an *In-Competition* test is a test where an *Athlete* is selected for *Testing* in connection with a specific *Competition*, which shall start with the beginning of opening ceremonies and conclude with the end of the closing ceremonies. Where an *Athlete* is not competing in the context of a *Competition*, *In-Competition* means the period commencing twelve hours before an *Event* in which the *Athlete* is scheduled to participate through the end of such *Event* and the *Sample* collection process related to such *Event*.

***Independent Observer Program:*** A team of observers, under the supervision of *WADA*, who observe and may provide guidance on the *Doping Control* process at certain competitions and report on their observations.

***Individual Sport:*** Any sport that is not a *Team Sport*.

***Ineligibility:*** See *Consequences of Anti-Doping Rules Violations* above.

***International Competition:*** A *Competition* where the International Olympic Committee, the International Paralympic Committee, FINA, a *Major Event Organization*, or another international sport organization is the ruling body for the *Competition* or appoints the technical officials for the *Competition*.

***International-Level Athlete:*** An *Athlete* included in the *FINA Registered Testing Pool* or an *Athlete* who is not included in the *FINA Registered Testing Pool* during his or her participation in a *FINA Competition/ Event*.

***International Standard:*** A standard adopted by *WADA* in support of the *Code*. 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 Organizations:*** The continental associations of National Olympic Committees and other international multi-sport organizations that function as the ruling body for any continental, regional or other *International Competition*.

***Marker:*** A compound, group of compounds or biological variable(s) that indicates the *Use* of a *Prohibited Substance* or *Prohibited Method*.

***Member Federation:*** Means the national federations affiliated to FINA in a country or a sport country recognized by FINA in accordance with C 7, C 8 and C 9. In countries where all of some anti-doping responsibilities have been delegated or assigned to a *National Anti-Doping Organisation* or *Regional Anti-Doping Organisation*, references in these Anti-Doping Rules to the *Member Federation* shall apply, as applicable, to the *Member Federation's National Anti-Doping Organisation* or *Regional Anti-Doping Organisation*.

***Metabolite:*** Any substance produced by a biotransformation process.

***Minor:*** A natural *Person* who has not reached the age of eighteen years.

***National Anti-Doping Organization:*** The entity(ies) 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

at the national level. If this designation has not been made by the competent public authority(ies), the entity shall be the country's *National Olympic Committee* or its designee.

**National Competition:** A sport *Competition* involving *International-* or *National-Level Athletes* that is not an *International Competition*.

**National-Level Athlete:** *Athletes* who participate in sport at the national level, as defined by each *National Anti-Doping Organization*, consistent with the International Standard for Testing and Investigations.

**National Olympic Committee:** The organization recognized 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:** The *Athlete* or other *Person'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 the *Prohibited Substance* or *Prohibited Method* or otherwise violated an anti-doping rule. Except in the case of a *Minor*, for any violation of DC 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

**No Significant Fault or Negligence:** The *Athlete* 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. Except in the case of a *Minor*, for any violation of DC 2.1, the *Athlete* must also establish how the *Prohibited Substance* entered his or her system.

*[Comment: For Cannabinoids, an Athlete may establish No Significant Fault or Negligence by clearly demonstrating that the context of the Use was unrelated to sport performance.]*

**Out-of-Competition:** Any period which is not *In-Competition*.

**Participant:** Any *Athlete* or *Athlete Support Personnel*.

**Person:** A natural *Person* or an organization or other entity.

**Possession:** The actual, physical *Possession*, or the constructive *Possession* (which shall be found only if the *Person* has exclusive control or intends to exercise control over the *Prohibited Substance/Method* or the premises in which a *Prohibited Substance/Method* exists); provided, however, that if the *Person* does not have exclusive control over the *Prohibited Substance/Method* or the premises in which a *Prohibited Substance/Method* exists, constructive *Possession* shall only be found if the *Person* knew about the presence of the *Prohibited Substance/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 Organization*. 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.

*[Comment: 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, the Anti-Doping Organization 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, the Anti-Doping Organization must establish that the Athlete knew the steroids were in the cabinet and that the Athlete intended to exercise control over the steroids. The act of purchasing a Prohibited Substance alone constitutes Possession, even where, for example, the product does not arrive, is received by someone else, or is sent to a third party address.]*

**Prohibited List:** The List identifying the *Prohibited Substances* and *Prohibited Methods*.

**Prohibited Method:** Any method so described on the *Prohibited List*.

**Prohibited Substance:** Any substance, or class of substances, so described on the *Prohibited List*.

**Provisional Hearing:** For purposes of DC 7.9, an expedited abbreviated hearing occurring prior to a hearing under DC 8 that provides the *Athlete* with notice and an opportunity to be heard in either written or oral form.

*[Comment: A Provisional Hearing is only a preliminary proceeding which may not involve a full review of the facts of the case. Following a Provisional Hearing, the Athlete remains entitled to a subsequent full hearing on the merits of the case. By contrast, an "expedited hearing," as that term is used in Article 7.9, is a full hearing on the merits conducted on an expedited time schedule.]*

**Provisional Suspension:** See *Consequences of Anti-Doping Rules 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 DC 14.

**Regional Anti-Doping Organization:** A regional entity designated by member countries to coordinate and manage delegated areas of their national anti-doping programs, which may include the adoption and implementation of anti-doping rules, the planning and collection of *Samples*, the management of results, the review of *TUEs*, the conduct of hearings, and the conduct of educational programs at a regional level.

**Registered Testing Pool:** The pool of highest-priority *Athletes* established separately at the international level by International Federations and at the national level by *National Anti-Doping Organizations*, who are subject to focused *In-Competition* and *Out-of-Competition Testing* as part of that International Federation's or *National Anti-Doping Organization's* Test Distribution Plan and therefore are required to provide whereabouts information as provided in Article 5.6 of the *Code* and the International Standard for Testing and Investigations.

**Sample/Specimen:** Any biological material collected for the purposes of *Doping Control*.

*[Comment: 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.]*



**Signatories:** Those entities signing the *Code* and agreeing to comply with the *Code* as provided in Article 23 of the *Code*.

**Specified Substance:** See DC 4.2.2.

**Strict Liability:** The rule which provides that under DC 2.1 and DC 2.2, it is not necessary that intent, *Fault*, negligence, or knowing *Use* on the *Athlete's* part be demonstrated by the *Anti-Doping Organization* in order to establish an anti-doping rule violation.

**Substantial Assistance:** For purposes of DC 10.6.1, a *Person* providing *Substantial Assistance* must: (1) fully disclose in a signed written statement all information he or she possesses in relation to anti-doping rule violations, and (2) 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 an *Anti-Doping Organization* or hearing panel. Further, the information provided must be credible and must comprise an important part of any case which 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.

**Target Testing:** Selection of specific *Athletes* for *Testing* based on criteria set forth in the International Standard for Testing and Investigations.

**Team Sport:** A sport in which the substitution of *Athletes* is permitted during an *Event*.

**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 (or *Possessing* for any such purpose) 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 Organization* to any third party; provided, however, this definition shall not include the actions of "bona fide" 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* which are not prohibited *Out-of-Competition* unless the circumstances as a whole demonstrate such *Prohibited Substances* are not intended for genuine and legal therapeutic purposes or are intended to enhance sport performance.

**TUE:** Therapeutic Use Exemption, as described in DC 4.4.

**UNESCO Convention:** The International Convention against Doping in Sport adopted by the 33rd session of the UNESCO General Conference on 19 October 2005 including any and all amendments adopted by the States Parties to the Convention and the Conference of Parties to the International Convention against Doping in Sport.

**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.

## APPENDIX 2

### EXAMPLES OF THE APPLICATION OF DC 10

#### EXAMPLE 1

Facts: An *Adverse Analytical Finding* results from the presence of an anabolic steroid in an *In-Competition* test (DC 2.1); the *Athlete* promptly admits the anti-doping rule violation; the *Athlete* establishes *No Significant Fault or Negligence*; and the *Athlete* provides *Substantial Assistance*.

Application of *Consequences*:

1. The starting point would be DC 10.2. Because the *Athlete* is deemed to have *No Significant Fault* that would be sufficient corroborating evidence (DC 10.2.1.1 and 10.2.3) that the anti-doping rule violation was not intentional, the period of *Ineligibility* would thus be two years, not four years (DC 10.2.2).
2. In a second step, the panel would analyze whether the *Fault*-related reductions (DC 10.4 and 10.5) apply. Based on *No Significant Fault or Negligence* (DC 10.5.2) since the anabolic steroid is not a *Specified Substance*, the applicable range of sanctions would be reduced to a range of two years to one year (minimum one-half of the two year sanction). The panel would then determine the applicable period of *Ineligibility* within this range based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of 16 months.)
3. In a third step, the panel would assess the possibility for suspension or reduction under DC 10.6 (reductions not related to *Fault*). In this case, only DC 10.6.1 (*Substantial Assistance*) applies. (DC 10.6.3, Prompt Admission, is not applicable because the period of *Ineligibility* is already below the two-year minimum set forth in DC 10.6.3.) Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 16 months.\* The minimum period of *Ineligibility* would thus be four months. (Assume for purposes of illustration in this example that the panel suspends ten months and the period of *Ineligibility* would thus be six months.)
4. Under DC 10.11, the period of *Ineligibility*, in principle, starts on the date of the final hearing decision. However, 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 (i.e., three months) after the date of the hearing decision (DC 10.11.2).
5. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would have to automatically *Disqualify* the result obtained in that *Competition* (DC 9).
6. According to DC 10.8, all results obtained by the *Athlete* subsequent to the date of the *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.
7. The information referred to in DC 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).
8. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (DC 10.12.1). However, the *Athlete* may return to train with a *Team* or to use the

facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (DC 10.12.2). Thus, the *Athlete* would be allowed to return to training one and one-half months before the end of the period of *Ineligibility*.

## **EXAMPLE 2**

Facts: An *Adverse Analytical Finding* results from the presence of a stimulant which is a *Specified Substance* in an *In-Competition Test* (DC 2.1); the *Anti-Doping Organization* is able to establish that the *Athlete* committed the anti-doping rule violation intentionally; the *Athlete* is not able to establish that the *Prohibited Substance* was used *Out-of-Competition* in a context unrelated to sport performance; the *Athlete* does not promptly admit the anti-doping rule violation as alleged; the *Athlete* does provide *Substantial Assistance*.

Application of Consequences:

1. The starting point would be DC 10.2. Because the *Anti-Doping Organization* can establish that the anti-doping rule violation was committed intentionally and the *Athlete* is unable to establish that the substance was permitted *Out-of-Competition* and the *Use* was unrelated to the *Athlete's* sport performance (DC 10.2.3), the period of *Ineligibility* would be four years (DC 10.2.1.2).
2. Because the violation was intentional, there is no room for a reduction based on *Fault* (no application of DC 10.4 and 10.5). Based on *Substantial Assistance*, the sanction could be suspended by up to three-quarters of the four years.\* The minimum period of *Ineligibility* would thus be one year.
3. Under DC 10.11, the period of *Ineligibility* would start on the date of the final hearing decision.
4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically *Disqualify* the result obtained in the *Competition*.
5. According to DC 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.
6. The information referred to in DC 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).
7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (DC 10.12.1). However, the *Athlete* may return to train with a *Team* or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (DC 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

## **EXAMPLE 3**

Facts: An *Adverse Analytical Finding* results from the presence of an anabolic steroid in an *Out-of-Competition Test* (DC 2.1); the *Athlete* establishes that he had *No Significant Fault* or

*Negligence*; the *Athlete* also establishes that the *Adverse Analytical Finding* was caused by a *Contaminated Product*.

Application of Consequences:

1. The starting point would be DC 10.2. Because the *Athlete* can establish through corroborating evidence that he did not commit the anti-doping rule violation intentionally—he had *No Significant Fault* in using a *Contaminated Product* (DC 10.2.1.1 and 10.2.3), the period of *Ineligibility* would be two years (DC 10.2.2).
2. In a second step, the panel would analyze the *Fault*-related possibilities for reductions (DC 10.4 and 10.5). Since the *Athlete* can establish that the anti-doping rule violation was caused by a *Contaminated Product* and that he acted with *No Significant Fault or Negligence* based on DC 10.5.1.2, the applicable range for the period of *Ineligibility* would be reduced to a range of two years to a reprimand. The panel would determine the period of *Ineligibility* within this range, based on the *Athlete's* degree of *Fault*. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of four months.)
3. According to DC 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.
4. The information referred to in DC 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).
5. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (DC 10.12.1). However, the *Athlete* may return to train with a *Team* or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (DC 10.12.2). Thus, the *Athlete* would be allowed to return to training one month before the end of the period of *Ineligibility*.

#### **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 used an anabolic steroid to enhance his performance. The *Athlete* also provides *Substantial Assistance*.

Application of Consequences:

1. Since the violation was intentional, DC 10.2.1 would be applicable and the basic period of *Ineligibility* imposed would be four years.
2. There is no room for *Fault*-related reductions of the period of *Ineligibility* (no application of DC 10.4 and 10.5).
3. Based on the *Athlete's* spontaneous admission (DC 10.6.2) alone, the period of *Ineligibility* could be reduced by up to one-half of the four years. Based on the *Athlete's* *Substantial Assistance* (DC 10.6.1) alone, the period of *Ineligibility* could be suspended up to three-quarters of the four years.\* Under DC 10.6.4, in considering the spontaneous admission and *Substantial Assistance* together, the most the sanction could be reduced or suspended would be up to three-quarters of the four years. The minimum period of *Ineligibility* would be one year.

4. The period of *Ineligibility*, in principle, starts on the day of the final hearing decision (DC 10.11). If the spontaneous admission is factored into the reduction of the period of *Ineligibility*, an early start of the period of *Ineligibility* under DC 10.11.2 would not be permitted. The provision seeks to prevent an *Athlete* from benefitting twice from the same set of circumstances. However, if the period of *Ineligibility* was suspended solely on the basis of *Substantial Assistance*, DC 10.11.2 may still be applied, and the period of *Ineligibility* started as early as the *Athlete*'s last use of the anabolic steroid.
5. According to DC 10.8, all results obtained by the *Athlete* subsequent to the date of the anti-doping rule violation until the start of the period of *Ineligibility* would be *Disqualified* unless fairness requires otherwise.
6. The information referred to in DC 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).
7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete*'s period of *Ineligibility* (DC 10.12.1). However, the *Athlete* may return to train with a *Team* or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete*'s period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (DC 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*.

#### **EXAMPLE 5**

Facts:

An *Athlete Support Personnel* helps to circumvent a period of *Ineligibility* imposed on an *Athlete* by entering him into a *Competition* under a false name. The *Athlete Support Personnel* comes forward with this anti-doping rule violation (DC 2.9) spontaneously before being notified of an anti-doping rule violation by an *Anti-Doping Organization*.

Application of Consequences:

1. According to DC 10.3.4, the period of *Ineligibility* would be from two up to four years, depending on the seriousness of the violation. (Assume for purposes of illustration in this example that the panel would otherwise impose a period of *Ineligibility* of three years.)
2. There is no room for *Fault*-related reductions since intent is an element of the anti-doping rule violation in DC 2.9 (see comment to DC 10.5.2).
3. According to DC 10.6.2, provided that the admission is the only reliable evidence, the period of *Ineligibility* may be reduced down to one-half. (Assume for purposes of illustration in this example that the panel would impose a period of *Ineligibility* of 18 months.)
4. The information referred to in DC 14.3.2 must be *Publicly Disclosed* unless the *Athlete Support Personnel* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).

#### **EXAMPLE 6**

Facts: An *Athlete* was sanctioned for a first anti-doping rule violation with a period of *Ineligibility* of 14 months, of which four months were suspended because of *Substantial Assistance*. Now, the *Athlete* commits a second anti-doping rule violation resulting from the presence of a

stimulant which is not a *Specified Substance* in an *In-Competition Test* (DC 2.1); the *Athlete* establishes *No Significant Fault or Negligence*; and the *Athlete* provided *Substantial Assistance*. If this were a first violation, the panel would sanction the *Athlete* with a period of *Ineligibility* of 16 months and suspend six months for *Substantial Assistance*.

Application of Consequences:

1. DC 10.7 is applicable to the second anti-doping rule violation because DC 10.7.4.1 and DC 10.7.5 apply.
2. Under DC 10.7.1, the period of *Ineligibility* would be the greater of:
  - (a) six months;
  - (b) one-half of the period of *Ineligibility* imposed for the first anti-doping rule violation without taking into account any reduction under DC 10.6 (in this example, that would equal one-half of 14 months, which is seven months); or
  - (c) two times the period of *Ineligibility* otherwise applicable to the second anti-doping rule violation treated as if it were a first violation, without taking into account any reduction under DC 10.6 (in this example, that would equal two times 16 months, which is 32 months).

Thus, the period of *Ineligibility* for the second violation would be the greater of (a), (b) and (c), which is a period of *Ineligibility* of 32 months.

3. In a next step, the panel would assess the possibility for suspension or reduction under DC 10.6 (non-*Fault*-related reductions). In the case of the second violation, only DC 10.6.1 (*Substantial Assistance*) applies. Based on *Substantial Assistance*, the period of *Ineligibility* could be suspended by three-quarters of 32 months.\* The minimum period of *Ineligibility* would thus be eight months. (Assume for purposes of illustration in this example that the panel suspends eight months of the period of *Ineligibility* for *Substantial Assistance*, thus reducing the period of *Ineligibility* imposed to two years.)

4. Since the *Adverse Analytical Finding* was committed in a *Competition*, the panel would automatically *Disqualify* the result obtained in the *Competition*.

5. According to DC 10.8, all results obtained by the *Athlete* subsequent to the date of *Sample* collection until the start of the period of *Ineligibility* would also be *Disqualified* unless fairness requires otherwise.

6. The information referred to in DC 14.3.2 must be *Publicly Disclosed*, unless the *Athlete* is a *Minor*, since this is a mandatory part of each sanction (DC 10.13).

7. The *Athlete* is not allowed to participate in any capacity in a *Competition* or other sport-related activity under the authority of any *Signatory* or its affiliates during the *Athlete's* period of *Ineligibility* (DC 10.12.1). However, the *Athlete* may return to train with a *Team* or to use the facilities of a club or other member organization of a *Signatory* or its affiliates during the shorter of: (a) the last two months of the *Athlete's* period of *Ineligibility*, or (b) the last one-quarter of the period of *Ineligibility* imposed (DC 10.12.2). Thus, the *Athlete* would be allowed to return to training two months before the end of the period of *Ineligibility*

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\* Upon the approval of WADA in exceptional circumstances, the maximum suspension of the period of *Ineligibility* for *Substantial Assistance* may be greater than three-quarters, and reporting and publication may be delayed.