

NSW INSTITUTE OF SPORT
ANTI-DOPING POLICY

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ARTICLE 1 - WHAT IS THE NSWIS POSITION ON *DOPING*?

- 1.1 NSWIS condemns doping as fundamentally contrary to the spirit of sport.
- Anti-doping programs, including documents such as this Anti-Doping Policy, seek to preserve what is intrinsically valuable about sport. The Essence of sport at all levels in Australia upholds the principles of Fairness, Respect, Responsibility and Safety.
- 1.2 The purpose of this Anti-Doping Policy and the anti-doping programs which it supports are:
- To protect *Athletes*' fundamental right to participate in doping-free sport and thus promote health, fairness and equality for *Athletes* worldwide; and
 - To ensure harmonised, coordinated and effective anti-doping programs at the international and national level with regard to detection, deterrence and prevention of doping.
- 1.3 NSWIS acknowledges the legislative authority of ASADA to act under the *ASADA Act 2006* and the *National Anti-Doping (NAD) scheme* established under that Act¹.

ARTICLE 2 - OPERATION OF THIS POLICY

- 2.1 This Anti-Doping Policy applies to:
- a. NSWIS *Athletes*;
 - b. NSWIS *Athlete Support Personnel*;
 - c. NSWIS employees, contractors and providers; and
 - d. any other *Person* who has agreed to be bound by this Anti-Doping Policy.
- 2.2 NSWIS recognises and adopts as relevant in this Policy the anti-doping policies and rules of the ASC and relevant *NSOs*. NSWIS recognises that these anti-doping policies and rules are World Anti-Doping Code (*Code*) compliant. NSWIS *Persons* bound under those anti-doping policies and rules are also bound by this Policy. For example, an *Athlete* who holds a scholarship with NSWIS and who also holds a scholarship with the *AIS* will be bound by this Policy, the ASC anti-doping policy and the *NAD scheme*. The *Athlete* will also be bound by the anti-doping policy of their *NSO* and their *International Federation (IF)*. Similarly, *Athlete Support Personnel* who hold positions with several *Sporting Administration Bodies (SABs)*, for example, NSWIS, the ASC, and an *NSO* or an *IF*, will be bound by the anti-doping policy for each organisation as well as the *NAD scheme*. NSWIS employees, contractors, providers and any other *Persons* who have agreed to be bound by this Anti-Doping Policy are bound by this Policy as set out below and may also be bound by the ASC, *NSO*, *IF*, and other *SAB* anti-doping policies.
- 2.3 This Policy reflects and adopts the anti-doping policies and rules of the *NAD scheme*, the ASC and *NSOs* and their interpretation, operation and application as applicable to *Persons* bound by this Policy, unless expressed otherwise below.
- 2.4 NSWIS *Athletes*, *Athlete Support Personnel*, employees, contractors, providers and *Persons* who are bound by the anti-doping policies or rules of the *NAD scheme*, the ASC and/or their *NSOs* are considered by NSWIS to have read and understood those anti-doping policies which apply to them. NSWIS considers such *Persons* to be aware of their obligations under these anti-doping policies. The relevant anti-doping policies and rules

¹ In May 2008, the *ASADA Act 2006* and *NAD scheme* were available at www.asada.gov.au.

are available on the ASADA and the ASC websites and through the relevant NSOs. Ignorance of these anti-doping policies is not an excuse from an alleged anti-doping rule violation, and shall not mitigate culpability in sanction.

ARTICLE 3 - NSWIS OBLIGATIONS

3.1 The policies and minimum standards set out in the *Code* and implemented through this Policy represent the consensus of a broad spectrum of stakeholders with an interest in fair sport. The persons identified in Article 2 are bound by this Policy as a condition of their participation and/or involvement with NSWIS.

3.2 NSWIS will²:

3.2.1 Acknowledge ASADA's functions and powers under the *ASADA Act 2006* and the *NAD scheme* established under that Act and will cooperate with ASADA and facilitate the execution of these functions and powers as reasonably required by ASADA;

3.2.2 Ensure that all relevant NSWIS policies, rules and programs conform with the *Code*, the *ASADA Act 2006* and the *NAD scheme* to the fullest extent possible;

3.2.3 Require all *Athletes* and *Athlete Support Personnel* and any other *Person* within its jurisdiction to recognise and be bound by anti-doping policies and rules which conform with the *Code* and this Policy;

3.2.4 Make reasonable efforts to make this Policy and any amendments to this Policy available to *Athletes*, *Athlete Support Personnel* and any other *Person* who is bound by this Anti-Doping Policy³;

3.2.5 Ensure that at all times it has the authority to enforce this Anti-Doping Policy;

3.2.6 Abide by, implement and enforce this Anti-Doping Policy to the satisfaction of ASADA;

3.2.7 Obtain ASADA's prior written approval for any amendments to this Anti-Doping Policy;

3.2.8 Develop and implement, in consultation with ASADA and NSOs, comprehensive programs and education initiatives about pure performance in sport;

² Note: It is recognised that *Athlete Support Personnel* in certain professions may be subject to legal obligations with respect to confidentiality and disclosure. Guidance on obligations to act must be sought from ASADA. In seeking this guidance appropriate confidentiality will be maintained.

The NSWIS Anti-Doping Policy can be found at URL:
<https://www.nswis.com.au/nswis-policies/>

- 3.2.9 Support the initiatives of and cooperate with *ASADA*, other *Anti-Doping Organisations* and other sporting organisations to assist the achievement of pure performance in sport;
- 3.2.10 Use its best efforts to assist NSWIS *Athletes* to fulfil their anti-doping responsibilities, including providing accurate *Athlete* whereabouts information;
- 3.2.11 Support and assist *Anti-Doping Organisations* including *ASADA* to conduct *Doping Control*;
- 3.2.12 Where required, act in accordance with this Anti-Doping Policy upon the receipt of a reported anti-doping rule violation; and notification by *ASADA* of an entry onto the *ASADA Register* in respect of an *Athlete*, *Athlete Support Personnel* or other *Person* bound by this Anti-Doping Policy, in consultation with *ASADA*;
- 3.2.13 Immediately refer all instances of possible anti-doping rule violations to *ASADA* for investigation;
- 3.2.14 Assist, cooperate and liaise with *ASADA*, the *ASC*, *NSOs* and other *Anti-Doping Organisations* in relation to the conduct of any investigation or hearing into an alleged anti-doping rule violation;
- 3.2.15 Act in a discreet and confidential manner in discharging its obligations under this Policy;
- 3.2.16 Not disclose or use any information about a person who is alleged to have, or has committed an anti-doping rule violation except as permitted under the *ASADA Act 2006*, the *NAD scheme*, the *Code* and this Policy;
- 3.2.17 Recognise and enforce any sanction applied by the *CAS* and/or other *Tribunals* in respect of an anti-doping rule violation, or recommendation of *ASADA* where a hearing has been waived;
- 3.2.18 Withhold some or all funding and support (other than authorised anti-doping education or rehabilitation programs), during any period of his or her *Ineligibility*, to any *Athlete* or *Athlete Support Personnel* who has committed an anti-doping rule violation;
- 3.2.19 If applicable, withhold some or all funding to *Sporting Organisations* that are not in compliance with the *Code*.
- 3.2.20 Recognise anti-doping policies and rules which conform with the *Code* to the fullest extent possible;

3.3 Breaches of role and responsibilities

Where an *Athlete*, *Athlete Support Personnel* or other *Person* bound by this Anti-Doping Policy breaches his or her responsibilities under this Anti-Doping Policy or another Anti-Doping Policy by which they are bound but the breach does not amount to an anti-doping rule violation, NSWIS may treat the breach as an infringement of NSWIS's Code of Conduct, or similar framework, and apply penalties in accordance with NSWIS rules.

ARTICLE 4 - RESULTS MANAGEMENT

- 4.1** NSWIS will recognise the results of laboratory analysis of *Samples* conducted by WADA-accredited laboratories in accordance with the *International Standards for Testing and Laboratories*.
- 4.2** NSWIS must recognise any determination or finding by ASADA or another *Anti-Doping Organisation* that an anti-doping rule violation may have occurred and enforce any *Provisional Suspension* imposed in relation to the potential anti-doping rule violation.
- 4.3** ASADA will manage the results of all potential anti-doping rule violations under the relevant NSO Anti-Doping Policy in accordance with Article 7 of the *Code*, the *ASADA Act 2006* and the *NAD scheme*, as in force from time to time.
- 4.4** ASADA will conduct any follow up investigation and be responsible for notification of an alleged anti-doping rule violation and all matters incidental thereto, in accordance with the relevant NSO Anti-Doping Policy, the *Code*, the *ASADA Act 2006* and the *NAD scheme*, as in force from time to time.
- 4.5** NSWIS should be:
- 4.5.1** notified by ASADA about a *Person* who is alleged to have or has committed an *Anti-Doping Rule Violation* under the anti-doping policy of a relevant NSO in accordance with the *Code*, *ASADA Act 2006* and the *NAD scheme* and in so far as ASADA is aware that the alleged is subject to the jurisdiction of NSWIS;
 - 4.5.2** advised by the relevant body of the outcome of the results management process of all *Anti-Doping Rule Violations* without any undue delay and as soon as practicable after the conclusion of that process; and
 - 4.5.3** consulted by ASADA about NSWIS participation in any investigations and hearings (including appeals) involving a *Person* bound by this Anti-Doping Policy. NSWIS shall have the right to attend hearings as an observer or interested party.

ARTICLE 5 - CONFIDENTIALITY AND REPORTING

5.1 Public Disclosure of Provisional Suspension

As a general rule, the *Provisional Suspension* of a *Person* under an anti-doping policy of a relevant NSO will not be *Publicly Disclosed*. However, subject to Article 5.2.2, ASADA, the relevant NSO or NSWIS may, if they consider it appropriate, *Publicly Disclose* the reasons for the *Provisional Suspension* so long as such disclosure will not be unfairly prejudicial to the interests of the *Person*. ASADA, the relevant NSO and the *Athlete* must be consulted prior to any such disclosure by NSWIS and ASADA and the relevant NSO must provide consent to the disclosure, with such consent not to be unreasonably withheld.

5.2 Confidentiality

- 5.2.1** The identity of any *Athlete* or other *Person* who is asserted to have committed an anti-doping rule violation may only be *Publicly Disclosed* by ASADA or NSWIS after consultation between ASADA and NSWIS, in accordance with the *Code*, the *ASADA Act 2006*, the *NAD scheme* and the

terms of the Confidentiality Undertaking signed between ASADA and NSWIS.

- 5.2.2** ASADA or NSWIS, or any official of either, will not publicly comment on the specific facts of a pending case (as opposed to general description of process and science) except in response to public comments attributed to the *Athlete* or other *Person* (or in each case their representative) who is the subject of an allegation of having committed an Anti-Doping Rule Violation.

5.3 Public disclosure

- 5.3.1** No later than twenty (20) days after it has been determined in a hearing that an anti-doping rule violation has occurred and the time to appeal such decision has expired, or such hearing has been waived and the time to appeal the decision has expired, or the assertion of an anti-doping rule violation has not been challenged in a timely fashion, ASADA must *Publicly Disclose* at least: the disposition of the anti-doping 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 and the *Consequences* imposed. ASADA must also *Publicly Disclose* within twenty (20) days appeal decisions concerning anti-doping rule violations. ASADA will also, within the time period for publication, send all hearing and appeal decisions to WADA. NSWIS may also elect to make a public statement in relation to the matter, following consultation with ASADA.

- 5.3.2** 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. ASADA with the co-operation of NSWIS will use reasonable efforts to obtain such consent, and if consent is obtained, will *Publicly Disclose* the decision in its entirety or in such redacted form as the *Athlete* or other *Person* may approve.

ARTICLE 6 - MUTUAL RECOGNITION

- 6.1** Subject to any right to appeal provided in, relevant anti-doping policies, the *Testing*, *TUEs* and 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 recognised and respected by NSWIS.
- 6.2** NSWIS may recognise the same determinations of other bodies which have not accepted the *Code* if the rules of those bodies are otherwise consistent with the *Code*. On being advised of such determination, NSWIS shall take all necessary action to render the determination effective.

ARTICLE 7 - SANCTIONS

- 7.1** In accordance with Article 6 above, NSWIS will, in particular, recognise and enforce sanctions imposed on NSWIS *Athletes* and *Athlete Support Personnel* by a relevant NSO.

- 7.2** NSWIS may require any *Person* who has committed an anti-doping rule violation and who is bound by this Policy to:
- 7.2.1** repay all funding and grants received from NSWIS subsequent to the occurrence of the anti-doping rule violation; and/or
 - 7.2.2** return all awards or other recognition received from *NSWIS*
- 7.3** In addition NSWIS may require any *Person*, including a NSWIS employee or contractor or provider, who has committed an anti-doping rule violation and who is bound by this Policy to undertake counselling for a specified period.
- 7.4** Where an employee of NSWIS has committed an anti-doping rule violation, NSWIS will take disciplinary action against the employee in accordance with the applicable conditions of employment.
- 7.5** NSWIS shall ensure that contracts allow that, where a contractor or provider of NSWIS has committed an anti-doping rule violation, the contract between that contractor or provider and NSWIS may be terminated.
- 7.6** NSWIS may impose a *Provisional Suspension* suspending financial or other assistance to a *Person* bound by this Policy whose *Sample* is the subject of an *Adverse Analytical Finding* or who is issued with an infraction notice or who is subject to an investigation.

ARTICLE 8 - AMENDMENT AND INTERPRETATION OF ANTI-DOPING POLICY

- 8.1** This Policy may be amended from time to time by NSWIS subject to *ASADA* approval. A copy of the amended Policy must be provided to *ASADA*.
- 8.2** This Policy has been adopted pursuant to the applicable provisions of the *Code* and shall be interpreted in a manner that is consistent with applicable provisions of the *Code*.
- 8.3** Words in the singular include the plural and vice versa.
- 8.4** A *Person* includes a body corporate.
- 8.5** Words not defined in this policy have the meaning ascribed to them in the *Code* unless a contrary meaning appears from the context.
- 8.6** Reference to “including” and similar words are not words of limitation.
- 8.7** Minor irregularities in the application of this Policy which cannot be reasonably be considered to have affected the determination of an anti-doping rule violation will not affect such determination.

APPENDIX 1 - DEFINITIONS

Adverse Analytical Finding means a report from a 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*.

Anti-Doping Organisation means a *Signatory* 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*, WADA, *International Federations*, and *National Anti-Doping Organisations*.

Athlete means any *Person* who participates in sport at the international level (as defined by each International Federation), the national level (as defined by each *National Anti-Doping Organisation*, including but not limited to those *Persons* in its *Registered Testing Pool*), and any other competitor in sport who is otherwise subject to the jurisdiction of any *Signatory* or other sports organisation accepting the *Code*. All provisions of the *Code*, including, for example, *Testing* and *TUEs*, must be applied to international- and national-level competitors. For the purposes of this Policy, '*Athlete*' includes any participant in sporting activity who is a *Member* of a relevant *NSO*, or a *Member* organisation of a relevant *NSO*, and meets the definition of *Athlete* under the *Code* and/or the *NAD scheme* as in force from time to time.

Athlete Support Personnel means any coach, trainer, manager, agent, team staff, official, medical or para-medical personnel, parent or any other *Person* working with, treating or assisting an *Athlete* participating in or preparing for sports *Competition*.

ASADA means the Australian Sports Anti-Doping Authority, an Australian Government authority established under the *ASADA Act 2006*.

ASADA Act 2006 means the *Australian Sports Anti-Doping Authority Act 2006* (Cth) as amended from time to time.

ASC means the Australian Sports Commission, an Australian Government body established under the *Australian Sports Commission Act 1989* (Cth), and includes the Australian Institute of Sport.

CAS means the *Court of Arbitration for Sport* (Oceania Registry).

Code means the World Anti-Doping *Code* adopted by the Foundation Board of WADA on 17 November 2007 at Madrid; or if the *Code* has been amended, the *Code* as so amended.

Competition means a single race, match, game or singular athletic contest. For example, a basketball game or the finals of the Olympic 100-metre race in athletics. For stage races and other athletic contests where prizes are awarded on a daily or other interim basis the distinction between a *Competition* and an *Event* will be as provided in the rules of the applicable *International Federation*.

Consequences of Anti-Doping Rules Violations means 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 for a specified period of time from participating in any *Competition* or other activity or funding as provided in Article 10 of the *Code*; and

(c) Provisional Suspension means the *Athlete* or other *Person* is barred temporarily from participating in any *Competition* prior to the final decision at a hearing conducted under Article 15 (Right to a Fair Hearing).

Doping. Means the occurrence of one or more of the anti-doping rule violations set forth in Article 2 of the *Code*.

Doping Control means 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, *TUEs*, results management and hearings.

Event means a series of individual *Competitions* conducted together under one ruling body (e.g., the Olympic Games, FINA World Championships, or Pan American Games).

In-Competition means, unless provided otherwise in the rules of an *International Federation* or other relevant *Anti-Doping Organisation*, the period commencing twelve hours before a *Competition* in which the *Athlete* is scheduled to participate through the end of such *Competition* and the *Sample* collection process related to such *Competition*.

International Event means an *Event* where the *International Olympic Committee*, the *International Paralympic Committee*, an *International Federation*, a *Major Event Organisation*, or another international sport organisation is the ruling body for the *Event* or appoints the technical officials for the *Event*.

International Federation (IF) means an *International Federation* recognised by the International Olympic Committee or General Assembly of International Sports Federations (GAISF) as the entity responsible for governing that sport internationally.

International Standard means a standard adopted by *WADA* in support of the *Code* as updated from time to time. 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 Organisations means the continental associations of *National Olympic Committees* and other international multi-sport organisations that function as the ruling body for any continental, regional or other *International Event*.

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

Member means a *Person* who, or a body which, is a *Member* of an *NSO*; a *Person* who, or body which, is affiliated with an *NSO*; or a *Person* who is a member of a body which is a *Member* of or affiliated with an *NSO*.

Metabolite means any substance produced by a biotransformation process.

National Anti-Doping Organisation (NADO) means 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, all at the national level. This includes an entity which may be designated by multiple countries to serve as regional *Anti-Doping Organisation* for such countries. 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. In Australia, the *NADO* as designated by the Australian Government is *ASADA*.

National Anti-Doping (NAD) scheme means the *NAD scheme* as defined under the *ASADA Act 2006* as amended from time to time.

National Olympic Committee (NOC) means the organisation recognised 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.

National Paralympic Committee (NPC). Means the organisation recognised by the International Paralympic Committee. The term *National Paralympic Committee* shall also include the National Sport Confederation in those countries where the National Sport Confederation assumes typical *National Paralympic Committee* responsibilities in the anti-doping area.

National Sporting Organisation (NSO) means a national or regional entity which is a *Member* of or is recognised by an *International Federation* as the entity governing that *International Federation's* sport in that nation or region, or a body recognised by the *ASC* as a *National Sporting Organisation*, and includes a *National Sporting Organisation* for the Disabled.

NSWIS means the New South Wales Institute of Sport.

Out-of-Competition means any *Doping Control* which is not *In-Competition*.

Person means a natural *Person* or an organisation or other entity.

Prohibited List means the List identifying the *Prohibited Substances* and *Prohibited Methods* which is published and revised by *WADA* as described in Article 4.1 of the *Code* as updated from time to time.

Prohibited Method means any method so described on the *Prohibited List*.

Prohibited Substance means any substance so described on the *Prohibited List*.

Provisional Suspension see *Consequences of Anti-Doping Violations* above.

Publicly Disclose or Publicly Report means to disseminate or distribute information to the general public or *Persons* beyond those *Persons* entitled to earlier notification in accordance with Article 14 of the *Code*.

Sample or Specimen means any biological material collected for the purposes of *Doping Control*.⁴

Signatories means those entities signing the *Code* and agreeing to comply with the *Code*, including the *International Olympic Committee*, *International Federations*, *International Paralympic Committee*, *National Olympic Committees*, *National Paralympic Committees*, *Major Event Organisations*, *National Anti-Doping Organisations*, and *WADA*.

SIS/SAS means the state or territory institute or academy of sport, jointly or severally, as appropriate.

Sporting Administration Body has the same meaning as in the *ASADA Act 2006*.

Sporting Organisation has the same meaning as in the *ASADA Act 2006*.

⁴ *Comment to Sample or Specimen: 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.*

Testing means the parts of the *Doping Control* process involving test distribution planning, *Sample* collection, *Sample* handling, and *Sample* transport to the laboratory.

Tribunal means a body approved by ASADA which shall convene from time to time to hear allegations of anti-doping rule violations against *Athletes*, *Athlete Support Personnel* and other *Persons* in order to: determine whether an anti-doping rule violation has occurred; determine appropriate sanctions where an anti-doping rule violation is found to have been committed; and to hear appeals, except in the case where an appeal must be to the CAS. In the case of an appeal, and where the CAS is not being used for appeals, a new *Tribunal* will be convened, i.e., no members of the *Tribunal* at the original hearing will hear the appeal.

TUE means Therapeutic Use Exemption, granted in accordance with the *International Standard* for Therapeutic Use Exemptions.

Use means the utilisation, application, ingestion, injection or consumption by any means whatsoever of any *Prohibited Substance* or *Prohibited Method*.

WADA means the *World Anti-Doping Agency*.