



Q&A: REVISED INTERNATIONAL STANDARD FOR TESTING

What are International Standards?

International Standards are aimed at bringing harmonization among anti-doping organizations (ADOs) responsible for specific technical and operational parts of the anti-doping programs. Adherence to the International Standards is mandatory for signatories to the World Anti-Doping Code (Code).

What is the purpose of the International Standard for Testing (IST)?

The main purpose of the IST, which has been a mandatory element of the World Anti-Doping Program since 2003, is to ensure a standardized approach for ADOs to plan effective testing and to maintain the integrity and identity of the samples. The current version of the IST (version 3.0, June 2003) covers the following areas with respect to the approach to testing: test distribution planning; notification of athletes; preparing for and conducting sample collection; security/post test administration; transport of samples. In addition, the IST expands on the requirements for ADOs for establishing registered testing pools (RTPs) and collecting athlete whereabouts information, crucial for effective no-advance-notice out-of-competition testing.

Why was it decided to revise the 2003 IST?

Concurrent to the revision of the Code, WADA launched in 2006 a process for the updating of the International Standards (including testing, laboratory activities and accreditation, and therapeutic use exemptions), to build on the experience gained by WADA and its stakeholders in the application of the Standards since their coming into force in January 2004 and to improve all anti-doping protocols and processes.

How did the revisions occur?

WADA implemented a review process for the IST similar to that of the Code, with three formal rounds of consultation. For this purpose, in 2006, WADA established an ad hoc working group consisting of different ADOs with experience of issues related to the IST. They included the International Ski Federation (FIS), the International Association of Athletics Federations (IAAF), the United States Anti-Doping Agency (USADA), UK Sport, and the Swiss National Anti-Doping Organization. This working group was established to assist with the drafting of the IST and its consultation process with stakeholders and was not intended to provide representation of all stakeholders.

After each round of consultation, the ad hoc working group met and discussed the comments received from stakeholders. After these three rounds of consultation, the revised IST was due to be considered by the WADA Executive Committee at its meeting in Madrid in November 2007. It was decided, however, following the diversity of stakeholders input, that there should be a fourth round of consultation before the revised IST was presented to the Executive Committee in May 2008.

During that fourth round of consultation, more than 40 written submissions were received, and a series of meetings were held with stakeholders, which resulted in the revised IST approved by the WADA Executive Committee on May 10, 2008.

What major changes does the revised IST include?

Greater Harmonization

Throughout the Code review consultation process, there was a clear call from stakeholders for greater harmonization and standardization of rules for the provision of athlete whereabouts information and missed tests. Stakeholders had initially wanted some flexibility in the original drafting of the 2003 Code and International Standards, and as a result these currently provide broad flexibility for ADOs with respect to (a) what whereabouts information needs to be collected; (b) what constitutes a missed test; (c) how many filing failures/missed tests have to be committed (and in what period) to constitute an anti-doping rule violation under article 2.4 of the Code; and (d) what sanctions should be imposed (the 2003 Code allows anything between 3 and 24 months).

One consequence of the lack of standardization is that it may be problematic for one ADO to recognize a missed test declared on an athlete by a different ADO with testing authority over that same athlete. Another is the perceived unfairness arising from the lack of harmonization of sanctions.

For these and other reasons, consultation has identified a pressing need to create a standard set of whereabouts requirements, applicable to all sports, setting out definitively: (1) what whereabouts information must be filed; (2) what constitutes a missed test; and (3) when and how ADOs should recognize missed tests declared under the rules of other ADOs. These requirements have now been established in the revised IST given that provisions were established in the revised Code (2009 Code) regarding (1) how many filing failures/missed tests, committed over what period, constitute an anti-doping rule violation under article 2.4; and (2) what the range of sanctions should be for such violations.

The 2009 Code, adopted by the WADA Foundation Board on November 17, 2007, formalizes the current WADA recommendation that any combination of three missed tests and/or failures to provide accurate whereabouts information within an 18-month period as determined by the ADOs with jurisdiction over the athlete shall constitute an anti-doping rule violation (Article 2.4). It specifies, however, that missed tests and filing failures must be declared based on rules compatible with the requirements of the IST.

Whereabouts Information and Missed Tests

The feedback received from stakeholders on the IST regarding whereabouts matters ranged from: (1) requiring athletes to provide whereabouts and be available for testing 24 hours a day/seven days a week (so that an athlete could in theory be held liable for a missed test if he/she could not be found at any time); to (2) specifying particular times of the day for testing during which, if the athlete is not available, the ADO may declare a missed test.

However, all stakeholders agreed that holding athletes accountable if they are not where they said they would be literally on a 24/7 basis is unrealistic, impracticable and unfair to athletes, and that athlete accountability must be balanced with fairness. In fact, all of the so-called "24/7" whereabouts systems in place included some sort of "safety waiver" to mitigate against unfairness (e.g. phoning the athlete if he/she could not be found to give him/her a set period to report for the test).

The solution found in the revised IST requires athletes in their ADO's RTP:

- a. To provide whereabouts and be subject to testing 24 hours a day/7 days a week/365 days a year;
- b. To provide residential, training and competition information, as well as an overview of regular activities and plans for travel;
- c. To submit quarterly whereabouts information and regular updates;
- d. To specify one hour each day (between 6 a.m. and 11 p.m.) during which they can be located at a specified location for testing. This does not limit the time in which an athlete may be tested; he or she may still be tested at any time, 24 hours a day. But, to mitigate the difficulty of accounting for one's whereabouts 24 hours a day one quarter in advance, the athlete's exposure to the risk of a missed test is limited to the 60-minute time-slot each day.

Mutual Recognition

Under the revised IST, Code signatories must inform WADA and other relevant ADOs of missed tests and whereabouts failures they have declared

against athletes, preferably through ADAMS (the Anti-Doping Administration & Management System developed by WADA). The other ADOs with jurisdiction over the athlete must recognize those decisions. If they fail to do so, WADA can intervene by way of appeals.

Team Sports

A number of team sports suggested that there are inherent differences between team sports and individual sports that require a modified whereabouts requirement for team sports distinct from that applicable to athletes participating in individual sports. In order to recognize team sports, the revised IST has now included a special section (11.5) which confirms that: (a) RTPs in team sports can be defined by reference to teams (so that it is some or all of the players on a particular team or teams who are in the RTP); (b) much of the whereabouts information filed for players on those teams will be collective “team activity” information; and (c) it is therefore likely that those filings will be made by team officials on a collective basis rather than by players on an individual basis. However, to maintain equal treatment for all athletes, players in team sports are not exempted from the standard whereabouts requirements set out above. As a result, as is the case for an athlete in an individual sport, a player in a team sport will be notified of a missed test if he or she is not where the team official said he or she would be during the 60-minute time-slot. He/she cannot avoid responsibility by blaming the team for filing inaccurate information about his/her whereabouts.

Isn't the 60- minute time-slot an opportunity for athletes to evade testing at other moments of the day?

A number of ADOs expressed concern that without potential exposure to a missed test outside the 60-minute time-slot, an athlete may provide little or no whereabouts information outside the hour and therefore evade testing outside the hour. Following discussion with these ADOs, it was clarified that the revised IST requires athletes to submit extensive information for each hour of the day outside that time-slot (or else face a filing failure, which could be the equivalent to a missed test for sanctioning purposes) and availability for testing at all times. ADOs are strongly encouraged to conduct additional testing outside the 60-minute time-slot. As well as the potential for declaring filing failures under article 2.4 (Whereabouts information), articles 2.3 (Evading sample collection) and 2.5 (Tampering with any part of the doping control, including providing fraudulent information to an ADO) of the 2009 Code can also be used to pursue athletes seeking to evade the system outside the 60-minute time-slot.

Will athletes from all levels be subject to the 60-minute time-slot?

No. Only athletes identified in their ADO's registered testing pool (RTP) are subject to whereabouts provisions set out in the revised IST. Throughout the consultation process, a need was identified to permit other athletes, at the regional or domestic level for example, to be subject to other whereabouts requirements outside the scope of the IST. This is expressly recognized and permitted in the revised IST, which will allow ADOs to collect whereabouts information at a less detailed level from more athletes to act as a deterrent to doping and to facilitate testing more generally; however those athletes are not subject to the specific whereabouts requirements of the IST.

Therefore, the provisions regarding whereabouts responsibilities and missed test accountability identified in the IST apply only to those athletes who are at highest risk for out-of-competition doping. International Federations are afforded discretion as to who should be subject to these provisions based on a risk assessment they have made in their sport, and National Anti-Doping Organizations are afforded discretion to create a RTP that will support an effective out-of-competition testing program at the national level.

Why does the 2009 Code maintain some flexibility in relation to sanctions for missed tests/whereabouts failures?

The 2009 Code, adopted by the WADA Foundation Board on November 17, 2007, formalizes the current WADA recommendation that any combination of 3 missed tests and/or failures to provide accurate whereabouts information within an 18-month period as determined by the ADOs with jurisdiction over the athlete shall constitute an anti-doping rule violation (Article 2.4). For those violations, the period of ineligibility shall be at a minimum 1 year and at a maximum 2 years based on the athlete's degree of fault (10.3.3). The comment of section 10.3.3 states that the sanction shall be 2 years where all 3 filing failures or missed tests are inexcusable. Otherwise, the sanction shall be assessed in the range of 2 years to 1 year, based on the circumstances of the case. By narrowing the discretion that existed under the 2003 Code, consistency is gained while still giving hearing panels enough flexibility to take into account the full circumstances of the particular case.

When will the revised IST come into force?

The revised IST will come into force on January 1, 2009, at the same time as the revised Code.

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DEFINITIONS OF THE 2009 CODE AND REVISED IST

Anti-Doping Organization (ADO): 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 Organizations that conduct testing at their events, WADA, International Federations, and National Anti-Doping Organizations.

Filing Failure: A failure by the athlete (or by a third party to whom the athlete has delegated this task) to make an accurate and complete Whereabouts Filing.

Missed Test: A failure by the athlete to be available for testing at the location and time specified in the 60-minute time-slot identified in his/her whereabouts filing for the day in question.

Registered Testing Pool: The pool of top level athletes established separately by each International Federation (IF) and National Anti-Doping Organization (NADO) who are subject to both in-competition and out-of-competition testing as part of that IF's or NADO's test distribution plan. Each IF shall publish a list which identifies those athletes included in its registered testing pool either by name or by clearly defined, specific criteria.

Whereabouts Filing: Information provided by or on behalf of an athlete in a registered testing pool that sets out the athlete's whereabouts during the following quarter.