



NCAA Division II Consequences for a Positive Drug Test

1. A student-athlete who tests positive for a **“banned drug”** other than a “street drug” shall be withheld from competition in all sports for a minimum of 365 days from the drug-test collection date and shall lose a year of eligibility. A student-athlete who tests positive for a **“street drug”** shall be withheld from competition for 50 percent of a season in all sports (at least the first 50 percent of all contests or dates of competition in the season following the positive test)
2. A student-athlete who tests positive has an opportunity to appeal the positive drug test.
3. A student-athlete who tests positive a **second time** for the use of any drug other than a “street drug” shall lose all remaining regular-season and postseason eligibility in all sports. A **combination of two positive tests** involving street drugs (marijuana, THC or heroin), in whatever order, will result in the loss of an additional year of eligibility
4. The penalty for missing a scheduled drug test is the same as the penalty for testing positive for the use of a banned drug other than a street drug.
5. If a student-athlete immediately transfers to a non-NCAA institution while ineligible because of a positive NCAA drug test, and competes in collegiate competition within the prescribed penalty at a non-NCAA institution, the student-athlete will be ineligible for all NCAA regular-season and postseason competition until the student-athlete does not compete in collegiate competition for the entirety of the prescribed penalty.

Drug Testing Appeals Process

If requested to do so, an institution is required to bring an appeal on behalf of a student-athlete who has a positive drug test or who violates an NCAA drug-testing protocol. The procedures for appeal are contained in Section No. 8.0 of the NCAA drug-testing protocol. The following information is provided to NCAA institutions that may be considering filing an appeal on behalf of a student-athlete:

1. At least three members of the Drug-Education and Drug-Testing subcommittee of the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports hear appeals.
The members of this subcommittee are:
 - o Lori Runksmeier, Director of Athletics, New England College, Chair of Subcommittee
 - o Jim Crawley, Faculty Athletic Representative, Dominican College
 - o Gregory Frazer, Faculty Athletic Representative, Duquesne University
 - o Donna Jordan, Athletic Trainer, University of South Florida
 - o Forrest Karr, Northern Michigan University
 - o Roger Kruse, Team Physician, University of Toledo
 - o Michael Mattia, Deputy Director of Athletics, Johns Hopkins University
 - o Kimberly Walpert, Team Physician, University of Georgia
 - o Brant Berkstresser, Director of Sports Medicine, Harvard University*

*Chair of the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports and other designated members of the Committee may also serve on the subcommittee to hear appeals. In the event that a member of the subcommittee is employed by a member institution belonging to the same athletics conference of the appealing institution, that subcommittee member will not hear the appeal.

- 2 Appeals are conducted by telephone conference arranged by The National Center for Drug Free Sport (Drug Free Sport) for the NCAA. NCAA staff, NCAA drug-testing consultants and NCAA legal counsel are normally present during the telephone conference, but do not participate in subcommittee deliberations or voting.
3. The subcommittee prefers not to know the identity of the institution requesting the appeal or the identities of any of the institutional representatives, the student-athlete or his/her representatives. Accordingly, during the telephone conference parties should refer to themselves only by title and should not mention the institution's name.
4. The institution and the student-athlete may include any party on the telephone conference they wish after reporting their names and telephone numbers to Drug Free Sport. The institution is required to include the student-athlete and the director of athletics. The director of athletics may designate a senior staff member to participate in his/her absence, subject to approval by the subcommittee chair. The head coach is recommended to be on the call.
5. The NCAA does not restrict the grounds for an appeal, but an institution bringing an appeal must comply with the requirements set forth in Section 8.0. Appeal considerations are outlined below:

- Procedural Challenge: Either the institution or student-athlete may challenge any procedure relating to the collection or testing of the subject samples. If the institution or student-athlete proves it is *more likely than not* that any substantiated problem with the collection or testing procedures *materially affects* a sample's integrity, the drug-test appeal subcommittee may find that no doping violation has occurred.
- Knowledge Challenge: The student-athlete is responsible for all substances consumed. However
 - If the institution or the student-athlete demonstrates that the student-athlete was not aware they had been administered (defined as placed into the student-athlete's system directly or through food or drink) a substance by another person that later is found to have contained a banned ingredient, then the drug-test appeal committee may determine that no violation has occurred. In this situation, the student-athlete must show that he or she both did not know *and* could not reasonably have known or suspected (even with the exercise of utmost caution) that he or she had been administered by a third party a substance that is later found to have contained a banned ingredient. Or
 - If the institution or the student-athlete demonstrates that the student-athlete asked specific and reasonable questions about a particular substance, medication or product of the appropriate athletics administrator and the athletics administrator assured the inquiring student-athlete that the substance does not contain a banned ingredient, then the drug-test appeal committee may determine that no violation has occurred. In this situation, the student-athlete must show that he or she both did not know *and* could not reasonably have known or suspected (even with the exercise of utmost caution) that the information provided by staff was erroneous. IN the case where the substance, medication or product reviewed and approved for use by the institution does contain a banned substance, this may result in an institutional violation.
- Reduction of Penalty Based on Mitigating Factors: The following will not be considered mitigating factors in a drug test appeal: the type or amount of banned substance detected through the drug test; evidence of the student-athlete's good character; the degree of remorse demonstrated by the student-athlete; family hardship or history of family dysfunction; and the degree to which the banned substance may or may not affect athletic performance.

The drug-test appeal committee may reduce the current legislative sanction to the first 50 percent of the regular season in all sports if the season of competition has not yet begun for that student-athlete or a minimum of the equivalent of the next 50 percent of a season of competition in all sports if the student-athlete tests positive during his or her season of competition when circumstances might indicate a reduction is warranted. For example:

- Where it is shown that the institution's drug education program was inadequate and such shortcomings influenced the student-athlete's judgment regarding the propriety of taking a specific product (a reduction of penalty normally will not be available in the case of admitted street drug use); or
 - A student-athlete's ability to discern he or she was using a banned substance was due to circumstances beyond the student-athlete's control.
6. Every attempt will be made to disseminate to the subcommittee any written materials submitted by the institution and received by Drug Free Sport regarding the appeal.
 7. The request for an appeal shall be submitted by the institution within 2 business days of the confirmation of the positive drug test. Required documentation must be submitted by the institution within 45 days of the confirmation of the positive drug test. At least five business days before the scheduled appeal, the institution is required to submit to Drug Free Sport a written summary describing the institution's drug-education program and the grounds for the appeal.
 8. The chair of the subcommittee or designee will open the telephone conference appeal by inviting the institution and its representatives and/or the student-athlete and his/her representatives to provide orally any information they wish to have before the subcommittee. The subcommittee prefers that the student-athlete present his/her information immediately after any introductory statements made by the director of athletics. Opportunity will be given to all parties to have questions asked and answered.
 9. Following the presentation by the institution and the question and answer period, the chair will ask the institution and any drug-testing consultants to leave the telephone conference and at that time the subcommittee will deliberate and render a decision. The NCAA staff will contact the director of athletics to report the subcommittee's decision as soon as possible. It is the institution's responsibility to inform the student-athlete.
 10. In the event that the appeal is accepted and the student-athlete is not sanctioned, no further action regarding the student-athlete's eligibility need be taken. In the event that the subcommittee denies the appeal and imposes a sanction, the provisions of NCAA Bylaw 18.4.1.5.1 will result in either a one year loss of eligibility and being withheld from one full season of competition in all sports, or the student-athlete being withheld from the next 50 percent of the season of competition in all sports.