

## USADA PROCEDURE REGARDING MISSED TESTS

### A. Athlete is not at the location(s) listed by the athlete on the USADA Athlete Location Form

- Step 1.** The DCO is obligated to make a reasonable effort to locate the athlete for testing. Before reporting to USADA that an athlete is unavailable for testing the DCO is specifically required to visit within a 24 hour period all locations on the Athlete Location Form and any applicable Athlete Change of Plan Form provided by the athlete. If the DCO cannot locate the athlete, the DCO is required to fill out an Unavailable Athlete Form establishing that reasonable attempts were made to locate the athlete.
- Step 2.** USADA CEO reviews the DCO's Unavailable Athlete Forms and the Athlete Location Form and any Athlete Change of Plan Form on file with USADA. If there appears to be a reasonable basis for calling this a missed test, then within 30 days after receipt of the Unavailable Athlete Forms the CEO will send notice by letter to the athlete, with a copy to the NGB, inviting the athlete to provide a written explanation why this should not be counted as a "missed test".
- Step 3.** Based on the athlete's written response, and further investigation if necessary, the CEO shall evaluate whether to treat the attempt to test as a "missed test." In this evaluation the burden shall be on the DCO to establish that the DCO's attempts to locate the athlete for testing were reasonable. The burden shall be on the athlete to establish in his or her written response that he or she was reasonably prevented from notifying USADA that he or she would not be available for testing at the locations set forth on the Athlete Location Form or any applicable Athlete Change of Plan Form.
- Step 4.** The athlete shall be notified by letter of the CEO's decision. The NGB shall receive a copy of the decision. The CEO's determination of a missed test is not final and shall be subject to the review and appeal process set forth below. If the athlete wishes to contest a missed test decision at a subsequent hearing, then the athlete must file a written objection with USADA within 30 days of notice of USADA's decision. The athlete will also have the right to challenge any finding of any "missed test" objected to within 30 days of notice of the USADA CEO's decision in a hearing brought to impose discipline as a result of three missed tests. The hearing shall be conducted pursuant to the USADA Adjudication Protocol which shall be a part of the Contract between USADA and the USOC ("the USADA Adjudication Protocol"). In addition, within 30 days of notice of the USADA's CEO's decision, the athlete may also request an administrative review of the CEO's determination of a missed test. This administrative review shall be conducted by a three member panel composed of members of the USADA Board of Directors or their designees. Such review shall be based on written submittals only and shall not be considered a hearing. The decision of the panel shall not be binding in any subsequent hearing initiated by the athlete to contest the determination that the athlete has three missed tests. An athlete shall not be held responsible for subsequent missed tests which occur before the athlete receives notice under Step 2 above of a prior missed test.

B. **Athlete is selected for testing from the NGB's Out of Competition ("OOC") pool but the athlete has not filed an Athlete Location Form for the quarter in which the draw takes place (the "current quarter").**

- Step 1.** USADA confirms that the athlete is in the NGB OOC pool and that the athlete was notified in writing of the requirement to submit a quarterly Athlete Location Form to USADA.
- Step 2.** USADA confirms that the athlete is past the specified deadline for submitting an Athlete Location Form for the current quarter and has had a reasonable time to do so.
- Step 3.** Athlete is notified by letter and invited to provide an explanation to USADA why no Athlete Location Form was filed for the current quarter.
- Step 4.** USADA's CEO determines whether to declare a missed test because the athlete's name was drawn for OOC testing and the athlete failed to file an Athlete Location Form for the current quarter.
- Step 5.** The athlete shall be notified by letter of the CEO's decision. The NGB shall receive a copy of the decision. The CEO's determination of a missed test is not final and shall be subject to the review and appeal process set forth below. If the athlete wishes to contest a missed test decision at a subsequent hearing, then the athlete must file a written objection with USADA within 30 days of notice of USADA's decision. The athlete will also have the right to challenge any finding of any "missed test" within 30 days of notice of the USADA CEO's decision objected to in a hearing brought to impose discipline as a result of three missed tests. The hearing shall be conducted pursuant to the USADA Adjudication Protocol which shall be a part of the Contract between USADA and the USOC ("the USADA Adjudication Protocol"). In addition, within 30 days of notice of the USADA CEO's decision, the athlete may also request an administrative review of the CEO's determination of a missed test. This administrative review shall be conducted by a three member panel composed of members of the USADA Board of Directors or their designees. Such review shall be based on written submittals only and shall not be considered a hearing. The decision of the panel shall not be binding in any subsequent hearing initiated by the athlete to contest the determination that the athlete has three missed tests. An athlete shall not be held responsible for subsequent missed tests which occur before the athlete receives notice under Step 3 above of a prior missed test.

C. **Notice**

For all purposes of this USADA Procedure Regarding Missed Tests, where USADA is required to send notice to the athlete, USADA will send the notice by overnight courier to the athlete's most recent address on file with USADA. If USADA is not able to obtain delivery at such address, then USADA shall contact the NGB and send notice by overnight courier to the athlete's most recent address on file with the NGB if that is a different address than the most recent address on file with USADA. If the athlete's most recent address on file with USADA and the NGB is the same, or if USADA is unable to obtain delivery at the athlete's most recent address on file with the NGB, then notice to the athlete shall be effective upon the courier's last attempt to deliver.