

SOFTBALL NZ ANTI-DOPING POLICY

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What is Softball NZ Position on Doping?

- 1.1 Softball NZ condemns the use of performance enhancing drugs and doping practices in sport. The use of performance enhancing drugs and doping practices is contrary to the ethics of sport and potentially harmful to the health of athletes.
- 1.2 Softball NZ aims to stop doping practices in sport by:
 - (a) imposing sanctions on persons who commit doping offences (as defined in clause 3.1)
 - (b) educating and informing persons about drugs in sport issues, and
 - (c) supporting the drug *testing* programmes and education initiatives of NZSDA and other *drug testing authorities*
- 1.3 Softball NZ will:
 - (a) give NZSDA timely and accurate *competitor* contact information

- (b) support and assist NZSDA to conduct doping control
 - (c) make this Code available to *members, competitors, coaches, officials*, and medical and health practitioners
 - (d) develop and implement, in co-operation with NZSDA and the International Softball Federation (ISF), drug education and information programs for *competitors, coaches, officials* and its medical and health advisers, and
 - (e) support the initiatives of the *HC* the *ISF* the *IOC* and WADA to stop doping in sport.
- 1.4 Competitor (as defined in the New Zealand Sports Drug Agency Act) and other persons (under Clause 2a) may be subject to investigation and disciplined under this Code.
- 1.5 Softball NZ will not disclose or use information about a person who has committed a doping offence except (for a purpose under this Code) to:
- (a) HC
 - (b) Chairperson of Softball NZ Board

until after disciplinary proceedings have been completed unless the person has agreed or authorised otherwise.

Who does this Code Apply to?

2. This Code applies to:
 - (a) all those persons including, in particular, all competitors (as defined in the NZSDA Act) who are within the jurisdiction of the Constitution, Rules and Regulations of Softball NZ.
 - (b) employees and contractors of Softball NZ, in accordance with the Employment Relations Act.
 - (c) coaches, officials, administrators or any other persons involved with the sport governed by Softball NZ.

What is a Doping Offence?

A doping offence occurs if either:

- 3.1 A competitor has been notified that:
 - (a) there is a determination made under section 16B of the NZSDA Act that the competitor has committed a doping infraction, or
 - (b) there is a determination made under section 14 of the NZSDA Act that the competitor did not have reasonable cause to fail to comply with a request to provide a sample, or
 - (c) there is a report to Softball NZ by a Drug Testing Authority other than the NZSDA that the competitor has taken a prohibited substance or used a prohibited method or there is an exceeding of any permitted level of a substance (as set out in the NZSDA Schedule), or
 - (d) there is a report to the [NSO] by a Drug Testing Authority other than the NZSDA that the competitor has refused to provide a sample or failed to comply with a request to provide a sample when requested to do so by that Drug Testing Authority.

or

- 3.2 A person (including a competitor):
 - (a) is knowingly involved in or has admitted trafficking of “drugs” (as defined in the New Zealand Sports Drug Agency Act) , or
 - (b) knowingly assists, or is knowingly involved in the commission of any activity as listed in clause 3.1 by another person.

Therapeutic Purpose

4. A person uses a scheduled drug or doping method for a therapeutic purpose if:
 - (a) The person had written approval prior to testing from a recognised medical authority for the therapeutic use of the scheduled drug or doping method;
 - (b) The level of the scheduled drug or doping method in the sample is consistent with the approved therapeutic use; and
 - (c) The therapeutic use of the scheduled drug or doping method is not inconsistent with IF rules.

Referral of a Doping Offence to Hearing

- 5.1 Where Softball NZ receives information that a person has committed a doping offence it will refer the matter to a hearing under clause 5.2.
- 5.2 When the Softball NZ refers the matter to a hearing, Softball NZ will send the person a letter which:
 - (a) sets out the nature and details of the doping offence
 - (b) says that Softball NZ will refer the matter to a hearing within 14 days, and
 - (c) encloses a copy of this Code.
- 5.3 Softball NZ will wait 14 days (or a shorter period agreed between the Softball NZ and the person) after sending a letter under clause 5.2 and then will:
 - (a) appoint a Tribunal established in accordance with its rules and/or the rules of the ISF to conduct a hearing; or
 - (b) appoint any other Tribunal recognised by Softball NZ and the Hillary Commission for the purposes of hearing doping related cases.
- 5.4 At any time prior to the commencement of the hearing the person to whom the notices have been sent may acknowledge in writing that:
 - (a) they have committed the doping offence;
 - (b) they accept the sanction as set out in clauses 6.1 , 7.1 or 7.2

- 5.5 Softball NZ may, in accordance with its Rules
- (a) suspend financial or other assistance to the person, and/or
 - (b) suspend the person from competition in events and competitions conducted by or under the auspices of Softball NZ
- until the determination of the hearing.
- 5.6 The Tribunal will determine:
- (a) the doping offence, (subject to Clause 6.1)
 - (b) what sanction will apply (subject to Clause 7.1), and
 - (c) how long any sanction will apply (subject to Clause 8).

How are Hearings Conducted?

- 6.1 The Tribunal will accept as a proven fact the result of a test conducted by a *drug testing authority* and/or a determination of a doping infraction under section 16(B) of the NZSDA Act or a determination under section 14 of the NZSDA Act made by the New Zealand Sports Drug Agency.
- 6.2 A person who has committed or is alleged to have committed a doping offence has a right to a hearing.
- 6.3 Where a Tribunal conducts the hearing, the Tribunal:
- (a) will conduct the hearing in accordance with Softball NZ rules or in such a manner as the Tribunal determines
 - (b) may conduct the hearing by telephone or other conference facility
 - (c) may ask questions of witnesses
 - (d) may appoint a legal representative or other person to assist it, and
 - (e) may allow the person who has committed or is alleged to have committed a doping offence to be assisted by a legal representative or other person.
- 6.4 The Tribunal will give Softball NZ a written statement of:
- (a) the findings of the hearing

- (b) what sanction (if any) will apply, and
- (c) how long the sanction (if any) will apply.

What Sanctions Apply?

7.1 The Tribunal will apply one or more of the following sanctions:

- (a) ban the person from selection to represent New Zealand in international competition
- (b) ban the person from competing in any events and competitions conducted by or under the auspices of Softball NZ (as set out in clause 7)
- (c) make the person ineligible to receive direct or indirect funding or assistance from Softball NZ
- (d) ban the person from holding any position within Softball NZ or being involved in any other way within the Softball NZ.
- (e) require that the person remain on NZSDA's annual testing programme for the purpose of out-of-competition *testing* and be subject to the rules of Softball NZ
- (f) recommend that:
 - (i) Softball NZ
 - (ii) HCrequire the person to repay financial assistance given to the person from the date of the doping offence.
- (g) require the person go to counselling for a specified period
- (h) withdraw awards, placings and records won by the competitor or the competitor's team in events and competitions conducted by or under the auspices of Softball NZ from the date of the doping offence, and/or
- (i) reprimand the person.
- (j) fine the person or direct the person to pay costs
- (k) suspend the person from membership of Softball NZ.

7.2 Where the Tribunal confirms a doping offence by an employee or contractor of Softball NZ, Softball NZ will take disciplinary action

against the employee or contractor, having regard to the Employment Relations Act.

How Long do Sanctions Apply?

8.1 Where the doping offence involves ephedrine, phenylpropanolamine, pseudoephedrine, caffeine, strychnine or related substances, as listed and defined as stimulants, class A, in the Olympic Movement Anti-Doping Code the following sanctions under Clauses 7.1(a), (b), (c), (d), and (e) will apply for

- (a) three months or less for the first doping offence
- (b) two years for a second doping offence
- (c) life for a third doping offence

8.2 Where the doping offence involves

- (a) a prohibited substance other than one of those identified in Clause 8.1 above
- (b) a prohibited method
- (c) a refusal to provide a sample
- (d) trafficking
- (e) any other cases

sanctions under clauses 7.1(a), (b), (c), (d) and (e) will apply for

- (i) a minimum of two years for a first doping offence
- (ii) life for the second doping offence

8.3 The sanction will apply from the date of the doping offence and take account of any period of suspension unless the Tribunal decides otherwise.

How will Softball NZ Enforce Sanctions?

9.1 Softball NZ will enforce the sanction decided by the Tribunal if the sanction is consistent with this Code.

9.2 Softball NZ will recognise and enforce a sanction properly imposed on a person who has committed a doping offence under the anti-doping rules or Code of:

- (a) the ISF
- (b) the *IOC*, or
- (c) another NSO, and Softball NZ will then apply an equivalent sanction in its own sport

where the offence would be a doping offence under this Code.

9.3 The *NSO* must inform:

- (a) the person
- (b) any sports organisations as appropriate
- (c) the HC
- (d) NZSDA
- (e) the (ISF)

of the doping offence and the sanction applied by the Tribunal.

The *NSO* may then inform other persons or organisations as the *NSO* thinks appropriate.

9.4 Softball NZ may reinstate financial or other assistance to the person which the *NSO* suspended under clause 5.5.

Appeals

10.1 A person (including Softball NZ aggrieved by a decision under this Code may appeal it to an Appeals Tribunal established in accordance with its Softball NZ rules and/or the rules of the ISF.

10.2 The decision of the Appeals Tribunal will be final and binding on the parties to the appeal.

10.3 Any sanction imposed by the Tribunal pursuant to clause 7.1 will remain in force during the appeal unless the Appeals Tribunal decides otherwise.

Retirement and Comebacks

(This section relates purely to retirements and comebacks for the purposes of the Code.)

11.1 A person may retire from competition by notifying Softball NZ in writing.

- 11.2 The person's retirement date will be the date Softball NZ receives the notice.
- 11.3 Retirement does not:
- (a) excuse the person from giving a *sample* requested before the retirement date
 - (b) prevent the analysis of a *sample* given by the person before their retirement date
 - (c) affect the results of *testing* under (a) or (b) above, or
 - (d) exempt the person from this Code in relation to a doping offence committed before their retirement date.
- 11.4 A person may make a written request to Softball NZ for reinstatement one year after their retirement date (unless otherwise provided for in NSO rules). The request is taken to be made on the date Softball NZ receives the request.
- 11.5 Reinstatement will be at the discretion of Softball NZ.
- 11.6 This Code will apply to the person from the date of their reinstatement request.
- 11.7 During the six month period following the reinstatement request the person may be tested:
- (a) as required by Softball NZ and ISF rules, and
 - (b) at the discretion of *NZSDA*.
- 11.8 A retired person may not compete in competitions and events conducted by or under the auspices of Softball NZ until the following periods expire:

For international competitions and events

2 years from the date of the reinstatement request.

For domestic competitions and events

6 months from the date of the reinstatement request.

- 11.9 A person may apply to [the Tribunal] to be eligible to compete in international competitions and events before the period set out in clause 11.8 expires.

11.10 A person may apply to the NSO to be eligible to compete in domestic competitions and events before the period set out in clause 11.8 expires.

What do Words used in this Code Mean?

12.1 In this Code:

“*HC*” means the Hillary Commission established by the *Sport and Fitness and Leisure Act 1987*.

“*NZSDA*” means the New Zealand Sports and Drug Agency established by the *New Zealand Sports Drug Agency Act 1994*.

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

“*coach, official and administrator*” mean a person who administers, manages, assists or is otherwise involved in the sport of Softball NZ other than as a competitor.

“*Competitor*” means a competitor as defined under the New Zealand Sports Drug Agency Act 1994

“*doping offence*” as defined in Clause 3

“*drug testing authority*” means:

- (a) NZSDA, or
- (b) an agency appointed or contracted by NZSDA, ISF or Softball NZ a national drug *testing* authority which:
 - (i) operates under its own rules and regulations, and
 - (ii) has *samples* analysed by an ISF approved or an IOC/WADA accredited laboratory, or
- (c) an agency which conducts *testing* on *competitors* for the detection of *prohibited substances* where:
 - (i) the methods of *testing* substantially accord with *IF* or *IOC* procedures, and
 - (ii) the *sample* is analysed by an ISF approved or an *IOC* accredited laboratory.

“*ISF*” means International Softball Federation.

“*IOC*” means the International Olympic Committee created by the Congress of Paris of 23 June 1894 which is entrusted with the control

and development of the Modern Olympic Games pursuant to the Olympic Charter.

“Softball NZ” means [full name of *NSO* and includes its *member* and affiliated organisations.

“*positive test result*” means a result of a test by a *drug testing authority* which shows the presence of a *prohibited substance* in a *sample* or the use of a prohibited method.

“*prohibited method*” means a method prohibited under the anti-doping Code of:

- (a) the ISF, or
- (b) if the ISF does not have an anti-doping Code, the *IOC*

and includes a method contained in the schedule of the NZSDA.

“*prohibited substance*” means a substance prohibited under the anti-doping Code of:

- (a) the ISF, or
- (b) if the ISF does not have an anti-doping Code, the *IOC*.
- (c) or a substance contained in the schedule of the NZSDA

“*sample*” means human biological fluid or tissue.

“*testing*” means the requesting, collecting and analysing of a *sample*.

“*trafficking*” means:

- (a) manufacturing, extracting, transforming, preparing storing, expediting, transporting, importing, transiting, offering, (whether subject to payment or free of charge), distributing, selling, exchanging, brokering, obtaining in any form, prescribing, commercialising, making over, accepting, possessing, holding, buying or acquiring in any manner a *prohibited substance*
- (b) financing or serving as an intermediary for the finance of any of the activities in paragraph (a)
- (c) being knowingly concerned or involved in a *prohibited method*

other than for personal use by a person who is not a *competitor*, for personal use by a *competitor* where the *competitor* has approval for therapeutic use, or in the course of the lawful exercise of professional medical, pharmaceutical or analogous activities.

“WADA” means World Anti Doping Agency.

“recognised medical authority” means:

- (a) The New Zealand Sports Drug Agency medical advisory panel;
or
- (b) An authority recognised by the IF which may authorise the use of a scheduled drug or doping method.

12.2 Words in the singular include the plural and vice versa.

12.3 A person includes a body corporate.