I. Philosophy and Objectives

The University of Notre Dame is committed to the pursuit of excellence in intercollegiate athletics within the framework of an academic community dedicated to the University’s educational and religious objectives. The University demands the unquestioned integrity of its athletics programs. As a Catholic institution of higher education, the University challenges student-athletes to develop in mind, body, and spirit, while calling them to personal integrity and responsibility.

Substance abuse, including the use of illegal or performance-enhancing drugs and the abuse of prescription drugs, constitutes a threat to the physical and mental well-being of student-athletes and to the integrity of the University and intercollegiate athletics. The University’s Drug Testing Program for Student-Athletes (“Program”) is designed to supplement University and Department of Athletics efforts to educate student-athletes about the effects of substance abuse on health and well-being. The Program seeks to deter and detect substance abuse so as to:

- ensure that the University’s athletic programs adhere to basic principles of fair play and sportsmanship;
- protect the health and safety of the University’s student-athletes and their teammates and competitors;
- provide appropriate assistance, treatment, and support to student-athletes found to have engaged in substance abuse; and
- reflect the University’s high expectations for student-athletes as representatives and ambassadors of the University.

II. Scope of Program

A. Relationship to NCAA Testing. The National Collegiate Athletics Association (“NCAA”) administers its own drug testing program under a separate protocol. As a member of the NCAA, the University participates in the NCAA drug testing program. Testing under the University’s Program is independent of NCAA testing, but a positive NCAA drug test triggers concurrent sanctions under this Program.

B. “Student-Athlete” Defined. For purposes of the Program, a “student-athlete” is any student who is subject to NCAA drug testing or is a member of a University cheerleading squad.
C. *Eligibility Exhausted.* A student-athlete who has exhausted his or her eligibility for intercollegiate competition is not subject to testing under the Program.

D. *Relationship to University Standards of Conduct.* The University Standards of Conduct prohibit, among other things, the possession or use of illegal drugs, the unauthorized possession or misuse of prescription drugs, and the possession of drug paraphernalia. Like all other students at the University, student-athletes remain subject to these prohibitions and related sanctions. To avoid inequitable treatment of student-athletes in relation to other students, however, a positive drug test under NCAA testing or this Program shall not provide the basis for or be considered in connection with disciplinary procedures for violations of the University Standards of Conduct.

### III. Administration of Program

A. *Drug Testing Oversight Committee*

   (1) *Structure.* The Drug Testing Oversight Committee (“Committee”) reports to the President and consists of five members.

   (a) *Appointments.* The President shall appoint three members, including one member from the Office of the President, one member from among the University Physicians, and one member from the University Counseling Center. The Director of Athletics shall appoint one member from the Department of Athletics. The Chair of the Faculty Board on Athletics shall appoint one member from among the other appointed or elected teaching and research faculty on that body.

   (b) *Terms.* Members shall be appointed for three-year terms and may be reappointed for one or more terms. If a member no longer holds the position that qualified the member for appointment, the appointing authority shall appoint a successor. Likewise, the appointing authority shall designate an interim member to replace a member who is temporarily unable to serve.

   (c) *Chair.* The President shall designate the Chair of the Committee on an annual basis. The Chair has authority to act on behalf of the Committee at his or her discretion. The Chair also has the authority to extend any deadline set forth in this Program (except for those deadlines set forth in part VII of this Program regarding Appeals) based on extraordinary circumstances.

(2) *Duties.* The Committee shall meet at least twice annually.

   (a) *Development of Drug Testing Protocol.* The Committee, in accordance with section V.C of this policy and informed by the best available information on drug testing methods and practices and on drug use in intercollegiate athletics, shall: (i) determine the appropriate methods of drug testing to use; (ii) establish the frequency of random testing and the number of student-athletes to be tested;
and (iii) designate teams whose student-athletes, or a random selection thereof, shall be subject to pre-participation or team testing.

(b) Implementation of Drug Testing Protocol. The Committee shall select a non-member University Physician or athletic trainer to serve as the Drug Testing Coordinator. In consultation with the Drug Testing Coordinator, the Committee shall identify an outside agency to perform laboratory testing services on samples collected under this Program, and may recommend to the President that the University contract with an outside agency to assist in the administration of the Program.

(c) Evaluation of Educational Initiatives. On an annual basis, the Committee shall gather and evaluate information on University and Department of Athletics initiatives that educate students on the following issues: the dangers of substance abuse; the availability of substance abuse assistance and treatment; and the requirements and procedures of the NCAA drug testing program and this Program.

(d) Annual Report. The Committee shall provide an annual report to the President and the Faculty Board on Athletics concerning implementation of this Program. Such report shall include the number of student-athletes tested during the past year under the NCAA drug testing program and this Program and aggregate test results. Such report shall also include information collected on the educational initiatives described in paragraph III.A.2.c and any recommendations for modification of this Program.

B. Drug Testing Coordinator. The Drug Testing Coordinator shall support and coordinate administration of the Program under the protocol developed by the Committee.

C. Drug Testing Appeals Board. The Drug Testing Appeals Board (“Appeals Board”) shall consist of the Faculty Athletics Representative, the University General Counsel or his or her designee, and a graduate student appointed by the President. The President shall designate the Chair of the Appeals Board on an annual basis.

IV. Prohibition on Use of Banned Drugs

A. Prohibition on Use of Banned Drugs. All student-athletes at the University of Notre Dame are prohibited from using any drug belonging to any of the classes of drugs banned by the NCAA, unless a medical exception is granted pursuant to this policy for such use. The classes of banned drugs include stimulants, anabolic agents, diuretics and other masking agents, street drugs, peptide hormones and analogues, anti-estrogens, and beta-2 agonists, and any drugs chemically related to these classes.

B. Medical Exceptions. Some banned drugs have legitimate medical uses. Accordingly, a University physician can grant a medical exception for use of a banned drug based on his or her conclusion that a student-athlete’s documented medical history demonstrates the
medical necessity for such use. Exceptions may be granted only for substances included in, or chemically related to, the following classes of banned drugs: stimulants, anabolic agents, diuretics and other masking agents, peptide hormones and analogues, anti-estrogens, and beta-2 agonists. A student-athlete may seek a medical exception for use of a substance within a class of banned drugs by submitting a request for the exception to the athletic trainer or University physician assigned to the student-athlete’s team. In response to such a request, a University physician shall evaluate the medical necessity for such use and, if he or she grants the exception, maintain appropriate documentation and dosage information. In the case of an anabolic agent or a peptide hormone, the student-athlete is not permitted to participate in competition until the NCAA approves use of the medication.

C. Drug Classifications. Under this Program, the University distinguishes between performance-enhancing drugs and street drugs. Drugs that are included in, or chemically related to, all classes on the NCAA banned drugs list other than street drugs will be treated as performance-enhancing drugs. Stimulants such as Adderall, Ritalin and Vyvanse will be treated as performance-enhancing drugs and cocaine shall be treated as a “Street Drug Other Than Marijuana” under this Program.

D. Safe Harbor

(1) Safe Harbor. On one occasion during the student-athlete’s eligibility for intercollegiate athletics at Notre Dame, a student-athlete who has used a street drug may seek safe harbor under this Program by disclosing his or her use of the street drug to the athletic trainer or University physician assigned to the student-athlete’s team. The safe harbor does not apply to the NCAA drug testing program.

(2) Eligibility. To be eligible for the safe harbor, the student-athlete must not have previously tested positive for any street drug under the NCAA drug testing program or this Program. A disclosure made after the student-athlete receives notification of a random test or after a non-random test under this Program shall not create safe harbor with regard to such test.

(3) Consequences of Safe Harbor Request

(a) The athletic trainer or University physician shall promptly notify the Drug Testing Coordinator of the safe harbor disclosure. The Drug Testing Coordinator shall arrange to have the student-athlete tested to establish a baseline for re-testing purposes. If the baseline test results in a positive test for the street drug disclosed by the student-athlete, the result shall not be treated as a positive finding under section VI.A. If the baseline test results in a negative test, the one-time safe harbor option is not returned to the student-athlete.

(b) The student-athlete shall be referred for drug counseling assessment and treatment in accordance with paragraph VI.B.2 and placed on probation in
accordance with paragraph VI.B.3 for the length of time corresponding to probation for a first positive for the street drug in question.

(c) A student-athlete’s request for safe harbor shall not result in sanctions affecting the student-athlete’s participation in team conditioning, practice, and/or competition, except that the Drug Testing Coordinator may notify the Director of Athletics if the Drug Testing Coordinator is concerned about the health and safety of the student-athlete based on the safe harbor disclosure or circumstances related thereto. In such cases, the Director of Athletics may suspend the student-athlete from conditioning, practice, and/or competition until the Director of Athletics is satisfied that the student-athlete is physically and mentally fit to resume such activities.

V. Program Testing for Use of Banned Drugs

A. Consent Form. The Athletics Compliance Office shall provide each student-athlete with information on this Program and the NCAA drug testing program, including forms stating that the student-athlete consents to testing under this Program and the NCAA drug testing program. Each student-athlete must sign the consent forms before he or she can participate in any countable athletically-related activity or, for members of the cheerleading squad, practice.

B. Testing Methods. The University may conduct drug testing using any medically recognized and scientifically reliable method of testing, including but not limited to urine, hair and oral fluid testing.

C. Methods of Selection. All student-athletes are subject to year-round testing, for the use of any banned drug, under a protocol established by the Committee within the following parameters:

(1) Random Testing. All student-athletes are subject to random testing. On an annual basis, the Drug Testing Coordinator shall designate the number of random testing windows and the number of student-athletes to be tested during each window, but there shall be no fewer than twenty such windows during the year.

(2) Pre-Participation Testing. The Committee shall have the authority to designate teams subject to drug testing as part of a pre-participation physical required of all incoming student-athletes, including whether to test all incoming student-athletes on the designated team or a random sample thereof.

(3) Team Testing. The Committee shall have the authority to designate teams subject to drug testing at any time during the course of the year, including whether to test all student-athletes on the designated team or a random sample thereof. In the event that the Committee exercises its authority to test all or part of a team under this paragraph, the Committee shall decide, in its discretion and in advance of the team test, to either (a) consider any resulting positive test to be a positive finding as defined herein and apply
the associated sanctions as defined in paragraph VI.B.4. or (b) not consider any resulting positive test to be a positive finding as defined herein and not apply the associated sanctions as defined in paragraph VI.B.4. If the Committee selects (a) and therefore any positive test resulting from the team test is deemed to be a positive finding, the normal procedure for positive findings, including notification procedures, shall apply. If the Committee selects (b) and therefore any positive test resulting from the team test is not deemed to be a positive finding, the Committee shall decide in advance of the team test whether personally identifiable positive test results will be shared with the members of the Committee, and if so, whether such information will be shared by the Committee with any other individuals (such as the Director of Athletics or the team physician). Except in extraordinary circumstances as determined by the Committee, the personally identifiable results will not be shared with any member of the coaching staff of the tested team. The Committee and/or its designee(s) may always consider aggregate data resulting from a team test to examine risk factors and trends among team participants and make recommendations to members of the Department of Athletics based on such aggregate data.

(4) For-Cause Testing. If the Director of Athletics has a good-faith basis to believe that a student-athlete is using a banned drug, he or she may notify the Drug Testing Coordinator, who shall arrange to have the student-athlete tested.

(5) Probationary Testing. Following a positive finding or a safe harbor disclosure, a student-athlete shall be subject to periodic announced and unannounced testing for the duration of the probationary period listed in paragraph VI.B.4.

D. Implementation of Drug Testing Protocol

(1) Notification. A student-athlete selected for testing shall be provided, in written or electronic form, the following information:

(a) a statement of the method by which the student-athlete was selected for testing (random, pre-participation, team, for-cause, or probationary testing);

(b) a description of the type of test to be conducted (urine, hair, and/or other);

(c) information on the designated test site to which the student-athlete must report for testing; and

(d) information on the appointed time at which, or window within which, the student-athlete must report to the designated test site.

(2) Conflict, Illness, or Injury.

(a) With appropriate advance notice from the student-athlete, the Drug Testing Coordinator shall excuse a student-athlete from a drug test conducted
pursuant to section V.C. of this Program and shall arrange alternative testing of the student-athlete in each of the following circumstances: (i) the student-athlete notifies the Drug Testing Coordinator (or his or her specifically-appointed designee) of an academic obligation or athletic competition that conflicts with the scheduled test and the Drug Testing Coordinator verifies the conflict; and (ii) the Drug Testing Coordinator (or his or her specifically-appointed designee), in his or her discretion, determines that the student-athlete has presented a compelling justification for rescheduling the test.

(b) The Drug Testing Coordinator or his or her specifically-appointed designee may excuse a student-athlete from the designated test site for the reasons set forth in paragraphs V.D.2.a.i & ii even if the student-athlete has not completed the test. In such a case, the Drug Testing Coordinator (or his or her specifically-appointed designee), before releasing the student-athlete from the site, must make appropriate arrangements for alternative testing of the student-athlete.

(3) **Positive Identification.** Upon arriving at the designated test site, a student-athlete shall provide valid photographic identification enabling the collection agent to positively identify him or her.

(4) **Provision of Specimen.** The student-athlete shall provide a specimen in accordance with the collection agent’s directions. In the case of urine testing, the collection agent shall monitor the furnishing of the specimen by direct observation to ensure the integrity of the specimen. If the specimen is not adequate (e.g., diluted specimen, insufficient volume), the student-athlete must remain under direct observation until the student-athlete produces an adequate specimen. The student-athlete shall have the right to witness the sealing of the specimen container in accordance with collection procedures.

(5) **Failure to Appear; Refusal to Submit; Failure to Cooperate; Manipulation or Tampering.** Failing to appear for or refusing to submit to a scheduled drug test, failing to cooperate with the test, manipulating or tampering with a test sample, or otherwise attempting to sabotage the collection process or to materially affect the results shall be reported to the Drug Testing Coordinator, who will decide as soon as practicable whether the circumstances warrant a positive finding under paragraph VI.A.1 and paragraph VI.B.4.e. If the Drug Testing Coordinator decides that the circumstances do warrant a positive finding, the Committee shall review the Drug Testing Coordinator’s decision *de novo* and issue a decision within ten business days of the Drug Testing Coordinator’s decision.

(6) **Laboratory.** All testing shall be performed by a laboratory designated by the Committee in accordance with paragraph III.A.2.b. Information on the laboratory’s testing methodology shall be provided to the student-athlete at his or her request.

(7) **Positive Results.** The testing laboratory shall notify the Drug Testing Coordinator of any positive test. The Drug Testing Coordinator shall determine whether
any medical exception is warranted under section IV.B. If the Drug Testing Coordinator finds that no medical exception is warranted, the Drug Testing Coordinator shall document confirmation of the positive test.

VI. Positive Findings; Sanctions

A. Positive Findings

(1) “Positive Finding” Defined. A positive finding results from:

(a) a test conducted and confirmed under this Program, the Notre Dame Drug Testing Policy for Student-Athletes in effect prior to May 22, 2013, or the NCAA testing program demonstrating evidence of the use of a banned drug, where no medical exception is granted for such use (“positive test”);

(b) a failure to appear for, refusal to submit to, or failure to cooperate with a drug test under this Program or the NCAA testing program; or

(c) manipulation of or tampering with a test sample or otherwise attempting to sabotage the collection process or to materially affect the results in a drug test under this Program or the NCAA testing program.

(2) Positive Finding During Probation. During a period of probation, a positive test for the drug for which the student-athlete previously tested positive will be treated as a positive finding if the level of the drug present in the student-athlete’s system demonstrates continued use of the banned drug.

B. Consequences of Positive Findings

(1) Notification. Within 48 hours of confirming a positive finding, the Drug Testing Coordinator shall notify the Director of Athletics and the Committee Chair of the positive finding. The Drug Testing Coordinator may notify the team physician of a positive finding, positive result or other information obtained via implementation of the Program if such notification will further the physical or mental well-being of the student-athlete.

(a) Written Confirmation; Notice of Appeal. The Drug Testing Coordinator and/or the Department of Athletics representative on the Committee shall meet in person, telephonically, or by other appropriate method with the student-athlete as soon as practicable, but within five business days of the Drug Testing Coordinator’s initial notification to the Director of Athletics and the Committee, to discuss the positive finding and the sanctions (including any period of probation, participation sanctions, or loss of athletics eligibility) to be imposed. At this meeting or within three business days thereof, the Department of Athletics representative shall provide the student-athlete with written confirmation of the

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1 See the Appendix for a chart summarizing the consequences of a positive finding.
sanctions and notice of the student-athlete’s right to appeal under part VII of this policy.

(b) Request for Mitigating Circumstances Review. If a student-athlete intends to seek relief under paragraph VI.B.4.d, the student-athlete must notify the Drug Testing Coordinator at the meeting described in paragraph VI.B.1.a or within three business days thereafter. Within three business days of receiving notification from the student-athlete, the Drug Testing Coordinator shall notify the Committee, which shall render a decision in accordance with the relevant process described in paragraph VI.B.4. The student-athlete’s notification shall stay the obligation of the Department of Athletics representative to issue the written confirmation and notice of the student-athlete’s right to appeal described in paragraph VI.B.1.a until the Drug Testing Coordinator and/or the Committee completes the relevant process.

c) Discretionary Notification. To further the well-being of the student-athlete, the Director of Athletics may notify the student-athlete’s parents (or legal guardian(s)) and team personnel (such as the head coach, sport administrator, team physician, or athletic trainer) of the positive finding and sanctions. Likewise, the Director of Athletics may provide other appropriate University officials with any information necessary to further the well-being of the student-athlete or the safety of the University community.

d) Stay of Sanctions. Any sanctions imposed under this Program shall begin to run when the timeframe for requesting an appeal under part VII expires or, if such appeal is timely requested, when the Appeals Board notifies the student-athlete of its decision. Notwithstanding this provision, the Director of Athletics may suspend the student-athlete from conditioning, practice, and/or competition during the timeframe for requesting an appeal or pending resolution of a timely requested appeal until the Director of Athletics is satisfied that the student is physically and mentally fit to resume such activities.

2) Referral for Drug Counseling Assessment. Following a safe harbor disclosure or a positive finding, the Drug Testing Coordinator and Department of Athletics member of the Committee shall refer the student-athlete to a substance abuse counselor or other appropriate health professional, including a nutritionist, for assessment. The substance abuse counselor or other appropriate health professional shall determine the intervention that would best meet the student-athlete’s needs and shall provide his or her recommendation to the student-athlete, the Drug Testing Coordinator, and, upon request, the athletic trainer or University physician assigned to the student-athlete’s team.

3) Probation

(a) Duration of Probation. Following a safe harbor disclosure or a positive finding, the student-athlete shall be placed on probation for the period of time specified in the schedule in paragraph VI.B.4.
(b) **Conditions of Probation.** During the period of probation, the student-athlete shall be subject to periodic announced and unannounced testing, as determined by the Drug Testing Coordinator, for any banned drug. A positive test will constitute a positive finding, except that a positive test for the drug for which the student-athlete previously tested positive (or, in the case of a safe harbor disclosure, provided a baseline) will be treated as a positive finding only if the level of the drug present in the student-athlete’s system demonstrates continued use of the banned drug.

(4) **Schedule of Sanctions (Participation Sanctions, Probation, and Loss of Eligibility)**

<table>
<thead>
<tr>
<th></th>
<th>First Positive</th>
<th>Second Positive</th>
<th>Third Positive</th>
<th>Fourth Positive</th>
</tr>
</thead>
</table>
| **Use of Performance-Enhancing Drugs** | • one-year ban from intercollegiate competition  
• no practice or conditioning until a negative re-test confirms that the substance has left the student-athlete’s system  
• probation (periodic announced and unannounced testing) for duration of athletics eligibility | • permanent loss of athletics eligibility at the University of Notre Dame | • N/A | • N/A |
| **Use of Street Drugs Other than Marijuana** | • ban from intercollegiate competition for 33 percent of the championship segment in the student-athlete’s sport  
• probation (periodic announced and unannounced testing) for one year | • one-year ban from intercollegiate competition  
• probation (periodic announced and unannounced testing) for duration of athletics eligibility | • permanent loss of athletics eligibility at the University of Notre Dame | • N/A |
| **Use of Marijuana** | • probation (periodic announced and unannounced testing) for six months | • ban from intercollegiate competition  
• probation (periodic announced and unannounced testing) for duration of athletics eligibility | • one-year ban from intercollegiate competition  
• probation (periodic announced and unannounced testing) for duration of athletics eligibility | • permanent loss of athletics eligibility at the University of Notre Dame |
(a) **Performance-Enhancing Drugs**

(i) *General.* Upon the first positive finding for use of a performance-enhancing drug, the student-athlete shall be subject to probation, a ban on intercollegiate competition, and practice and conditioning restrictions as set forth in the schedule in paragraph VI.B.4. Upon a subsequent positive finding for use of a performance-enhancing drug, the student-athlete shall lose any remaining athletics eligibility at the University of Notre Dame.

(ii) *Failed NCAA Test.* If the student-athlete’s positive finding is the result of a confirmed positive test in the NCAA drug testing program, participation sanctions imposed under this Program shall run concurrently with NCAA participation sanctions.

(b) **Street Drugs**

(i) *General.* Upon the first positive finding for use of a street drug, the student-athlete shall be subject to probation and a ban on intercollegiate competition as set forth in the schedule in paragraph IV.B.4. Upon any subsequent positive findings for use of a street drug, the student-athlete shall be subject to the next level of sanctions for the test-positive street drug, even if the test-positive street drug differs from the previous test-positive street drug. When the sanctions required under paragraph IV.B.4 include a ban on intercollegiate competition for a percentage of the championship segment in the student-athlete’s sport, the calculation shall be based on the number of permitted contests or dates of competition in the regular season of that sport and shall be rounded up to the next whole number. The ban shall run from the expiration of the time for appeal, or the denial of a timely filed appeal, until the requisite number of championship segment contests or dates of competition have elapsed. If the student-athlete cannot satisfy the ban in one championship segment, the ban shall continue through all subsequent intercollegiate competitions until the requisite number of championship segment contests or dates of competition have elapsed. In any case involving a student-athlete who participates in multiple sports, the Committee shall have discretion to determine how the ban on intercollegiate competition applies across the student-athlete’s playing seasons.

(ii) *Failed NCAA Test.* If the student-athlete’s positive finding is the result of a confirmed positive test in the NCAA drug testing program, participation sanctions imposed under this Program shall run concurrently with NCAA participation sanctions.
(c) Aggravating Circumstances

(i) Risk to Self or Others. If, upon notification by the Drug Testing Coordinator of a positive finding, the Director of Athletics determines that the student-athlete’s positive finding resulted from circumstances posing a grave risk to self or others (such as use of cocaine, heroin, or hallucinogens), the Director of Athletics may impose sanctions beyond those set forth in the schedule of sanctions, in addition to notifying appropriate University officials as permitted under paragraph VI.B.1.c.

(ii) Category of Subsequent Positive. Where a positive finding for use of a performance-enhancing drug precedes or follows a positive finding for use of a street drug, the Committee may impose sanctions beyond those set forth in the schedule of sanctions.

(iii) Timing of Increase. The Director of Athletics or the Committee shall make any decision to increase sanctions within five business days of the final disposition of the positive finding.

(d) Mitigating Circumstances

(i) Use Prior to Enrollment. A student-athlete may assert under paragraph VI.B.1.b that a positive finding resulted from the student-athlete’s use of a banned drug prior to his/her initial enrollment at Notre Dame (including enrollment in the Notre Dame Summer Session). Upon notification of such an assertion, the Committee shall decide based on its review of the facts whether the student-athlete has demonstrated it was more likely than not that the positive finding resulted from use of the banned drug prior to the student-athlete’s initial enrollment at Notre Dame. The Committee shall render its decision within ten business days from receipt of notification of such assertion. If the Committee determines that it was more likely than not that the positive finding resulted from use of the banned drug prior to the student-athlete’s initial enrollment at Notre Dame, it may, within its discretion, void the positive finding or reduce the sanction. Otherwise, the Department of Athletics representative shall issue the written confirmation and notice of the student-athlete’s right to appeal described in paragraph VI.B.1.a. Whether or not the Committee voids the positive finding, the Committee shall refer the student-athlete for drug counseling assessment and treatment in accordance with paragraph VI.B.2 and may place the student-athlete on probation in accordance with paragraph VI.B.3 for the length of time not to exceed the corresponding period of probation for a first positive for the drug in question.

(ii) Unintentional Use of Performance-Enhancing Drug. In the case of a first positive finding in testing under this Program for a
performance-enhancing drug, a student-athlete may assert under paragraph VI.B.1.b that the positive finding resulted from the student-athlete’s unintentional use of the banned drug. Upon notification of such an assertion, the Committee shall decide based on its review of the facts whether the student-athlete has demonstrated it was more likely than not that the student-athlete’s use of the banned drug was unintentional. The Committee shall render its decision within ten business days from receipt of notification of such assertion. To demonstrate “unintentional use,” a student-athlete must demonstrate that he/she had no intent to use a banned substance; lack of knowledge of the ingredients of a supplement or other reckless conduct by the student-athlete does not demonstrate unintentional use.” If the Committee determines that it was more likely than not that the student-athlete unintentionally used a performance-enhancing drug, it shall suspend the one-year ban on intercollegiate competition. Otherwise, the Department of Athletics representative shall issue the written confirmation and notice of the student-athlete’s right to appeal described in paragraph VI.B.1.a. In the event that the Committee suspends the one-year ban on intercollegiate competition, the student-athlete may engage in practice and conditioning, but shall not compete until a negative re-test confirms that the banned drug has left the student-athlete’s system. A subsequent positive finding for a performance-enhancing drug shall be treated as a second positive.

(e) Failure to Appear; Refusal to Submit; Failure to Cooperate; Manipulation or Tampering. For purposes of the schedule of sanctions, if the Committee determines that the circumstances warrant a positive finding, a failure to appear for or refusal to submit to a required drug test, a failure to cooperate with the test, the manipulation of or tampering with a test sample, or an attempt to sabotage the collection process or to materially affect the results will ordinarily be treated as a positive finding for performance-enhancing drugs. The Committee may, however, reduce the standard sanction based on the circumstances of the positive finding.

(5) Application for Fifth Year of Athletics Eligibility. A student-athlete who is banned from intercollegiate competition for a whole or part of any season as part of a sanction under this Program shall not be permitted to assert inability to compete during the ban as a basis for seeking a fifth year of athletics eligibility at Notre Dame.

(6) Permanent Loss of Athletics Eligibility; Termination of Grant-in-Aid. When a student-athlete incurs a permanent loss of athletics eligibility at the University of Notre Dame under this Program, the student-athlete is banned from conditioning, practicing, competing, and engaging in any other participation on any intercollegiate team at Notre Dame. In addition, when a student-athlete incurs either a permanent loss of athletics eligibility or a loss of athletics eligibility that is equal to or greater than his or her remaining athletics eligibility at Notre Dame as a sanction under this Program, the
University may terminate his or her grant-in-aid at the earliest point consistent with NCAA, conference, and University rules.

VII. Appeals

A. Grounds for Appeal. Within five business days of receiving the written confirmation pursuant to paragraph VI.B.1.a, the student-athlete, through a written submission to the Chair of the Appeals Board, may appeal a positive finding or sanction under this Program on one of the following grounds: (1) a procedural irregularity or defect materially affected the outcome of the test on which the positive finding was based; (2) a positive finding was otherwise in error, as demonstrated by compelling evidence; (3) an exercise of discretionary authority expressly conferred under this Program was arbitrary and capricious; or (4) a determination under paragraph VI.B.4.d concerning use prior to a student-athlete’s initial enrollment or unintentional use of a performance-enhancing drug was in error, as demonstrated by compelling evidence.

B. Consideration of Appeal. The Appeals Board shall have the authority to establish the procedures, rules, and limitations under which the student-athlete may present evidence and the authority to establish other procedural elements of the appeal. The Appeals Board may require a student-athlete to undergo a drug test before making its decision. Except in cases in which the Appeals Board is awaiting the results of an additional drug test or in the event of extraordinary circumstances as determined by the Appeals Board, the Appeals Board shall notify the student-athlete in writing of the disposition of the appeal within five business days of receiving the review request. In cases in which the Appeals Board is awaiting the results of an additional drug test, the Appeals Board shall notify the student-athlete in writing of the disposition of the appeal within five business days of receiving the results of the test.

C. Remedies. If the Appeals Board concludes that a procedural irregularity or defect materially affected the outcome of the test on which the positive finding was based or that the positive finding was otherwise in error, the Appeals Board shall set aside the positive finding. If the Appeals Board concludes that an exercise of discretionary authority expressly conferred under this Program was arbitrary and capricious, the Appeals Board shall set aside the positive finding or reduce or set aside the sanction, as appropriate. If the Appeals Board concludes that a determination under paragraph VI.B.4.d.i on use of a banned drug prior to the student-athlete’s initial enrollment at Notre Dame was in error, the Appeals Board shall at a minimum refer the student-athlete for drug counseling assessment and treatment in accordance with paragraph VI.B.2, and it may in addition void the positive finding, reduce the sanction, and/or place the student-athlete on probation in accordance with paragraph VI.B.3 for the length of time corresponding to probation for a first positive for the drug in question. If the Appeals Board concludes that a determination under paragraph VI.B.4.d.ii on unintentional use of a performance-enhancing drug was in error, the Appeals Board shall suspend the one-year ban on competition.

D. Finality. Decisions of the Appeals Board are final.
This policy was initially approved by Rev. John I. Jenkins, C.S.C., University President, on May 22, 2013, and approved as revised on August 29, 2014, August 28, 2015, and March 7, 2016.
**APPENDIX: CONSEQUENCES OF POSITIVE FINDINGS**

<table>
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<tr>
<th>Notification</th>
<th>Assessment/Treatment</th>
<th>Participation Sanctions / Probation / Loss of Eligibility / Loss of Grant-in-Aid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use of Performance-Enhancing Drugs</td>
<td>• meeting between student-athlete, Drug Testing Coordinator, and Department of Athletics representative, followed by written confirmation of sanctions • in discretion of Director of Athletics, notification to student-athlete’s parents/guardian and team personnel; notification to other University officials if necessary to protect student well-being or the safety of the University community</td>
<td>• referral to substance abuse counselor for assessment • determination by substance abuse counselor of intervention that would best meet student-athlete’s needs</td>
</tr>
<tr>
<td>Use of Street Drugs Other than Marijuana</td>
<td>• meeting between student-athlete, Drug Testing Coordinator, and Department of Athletics representative, followed by written confirmation of sanctions • in discretion of Director of Athletics, notification to student-athlete’s parents/guardian and team personnel; notification to other University officials if necessary to protect student well-being or the safety of the University community</td>
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</tr>
<tr>
<td>Use of Marijuana</td>
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