INSTITUTIONAL DRUG TESTING

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OBJECTIVES

- Core Group
- Purpose of Drug Testing Program
- Legal Theory
  - 4th Amendment
  - 14th Amendment
- Student-athlete's Rights
- Philosophy of University
- Philosophy of Athletic Department

CORE GROUP

- Athletic Director (or Designee)
- Team Physician
- Head Athletic Trainer
- Risk Management
- University Legal Counsel
- Coaches
- Student-Athlete

PURPOSE OF DRUG TESTING PROGRAM

- Deter the use of drugs
- Identify substance abuse users
- Provide Rehabilitation and Educational Services
- Ensure the role of student-athletes as positive representatives of the University and role models in community
- Reprimand those student-athletes that do not adhere to the requirements of the program

COMPONENTS OF DRUG TESTING PROGRAM

- Purpose Statement
- Notification guidelines
- Banned Substance List
- Types of Drug Testing

COMPONENTS OF DRUG TESTING PROGRAM

- Specimen Collection
- Medical Exception Process
- Positive Results
  - What constituents positive test?
- Consequences of Violations
- Appeal Process
- Safe harbor Program

LEGAL THEORY

- Constitutional Law
  - 4th Amendment (Right to Privacy)
    - Does drug testing violate athlete's right to privacy?
      - *Bally v. Northeastern University 1989*
    - An urinalysis drug test is considered a search
      - Search must be deemed reasonable
      - Participation in intercollegiate athletics is a choice, student-athletes do not have inherent right in participation

LEGAL THEORY

- Constitutional Law
  - 4th Amendment (Right to Privacy)
    - Does observation of drug test violate privacy?
      - *O'Halloran v. University of Washington 1988*
        - Integrity of sample must be maintained. Observation is utilized ONLY to preserve integrity of sample
        - The potential violation of privacy during observation is again reduced due to the fact that participation in intercollegiate athletics is voluntary
        - Outweighed by interest in safeguarding integrity of competition

LEGAL THEORY

- Constitutional Law
  - 14th Amendment (Right to Due Process)
    - Does Drug Testing violate 14th Amendment?
      - *McHale v. Cornell University, Graham v. NCAA, Karamanos v. Baker, McCormack v. NCAA, and Tarkanian v. NCAA*
      - National Collegiate Athletic Association (NCAA) is private organization and its rules and regulations are not governed by US Constitution
      - Individual members that are publicly funded are state actors and therefore may be held individually to the constitutional requirements of due process when employing drug testing procedures

LEGAL THEORY

- Constitutional Law
  - 14th Amendment (Right to Due Process)
    - Consent form helps satisfy due process requirements
      - Signing consent form is voluntary action due to fact that individual that does not sign is not tested and therefore not subject to consequences
        - However, if student-athlete does not sign they cannot participate in intercollegiate athletics
        - Student does not have inherent right to participate in athletics, therefore they can be restricted from participation if they do not sign consent

STUDENT-ATHLETE'S RIGHTS

- HIPPA
- FERPA
  - Buckley Amendment
- Right to privacy
- Due process

PHILOSOPHY OF UNIVERSITY

- Rights of Student-athletes
- Appeal Process
- Consequences of Violations
  - Do they fit together with University policy

PHILOSOPHY OF ATHLETIC DEPARTMENT

- Types of Test
  - Institutional Random
  - Institutional Reasonable suspicion
  - Pre-Season Team Testing (not currently done at CCU)
  - NCAA Year Round, Championship, and Summer testing

PHILOSOPHY OF ATHLETIC DEPARTMENT

- Frequency of testing
  - Budget Driven
    - Substance Abuse Panel (Street Drugs)
    - Anabolic Agents Panel

PHILOSOPHY OF ATHLETIC DEPARTMENT

- Consequences for violations
  - 1st Offense
    - Suspension 1-3 games/matches
    - Counseling Session
    - Continuous Testing for 1 year from date of positive
  - 2nd Offense
    - Suspension 25% scheduled games/matches
    - Counseling Session
    - Continuous Testing until Graduation or exhaust eligibility
  - 3rd Offense
    - Dismissal from Athletic Program
    - Removal of Athletic Aid at end of current semester

PHILOSOPHY OF ATHLETIC DEPARTMENT

- Appeal Process
  - Committee comprised of individuals outside of athletic department
  - Committee decision is final

PHILOSOPHY OF ATHLETIC DEPARTMENT

- Threshold levels
  - DOT standards
  - Zero Tolerance (Aegis Labs)

THRESHOLD STANDARDS

Zero-Tolerance® Detects Drugs at Lower Thresholds

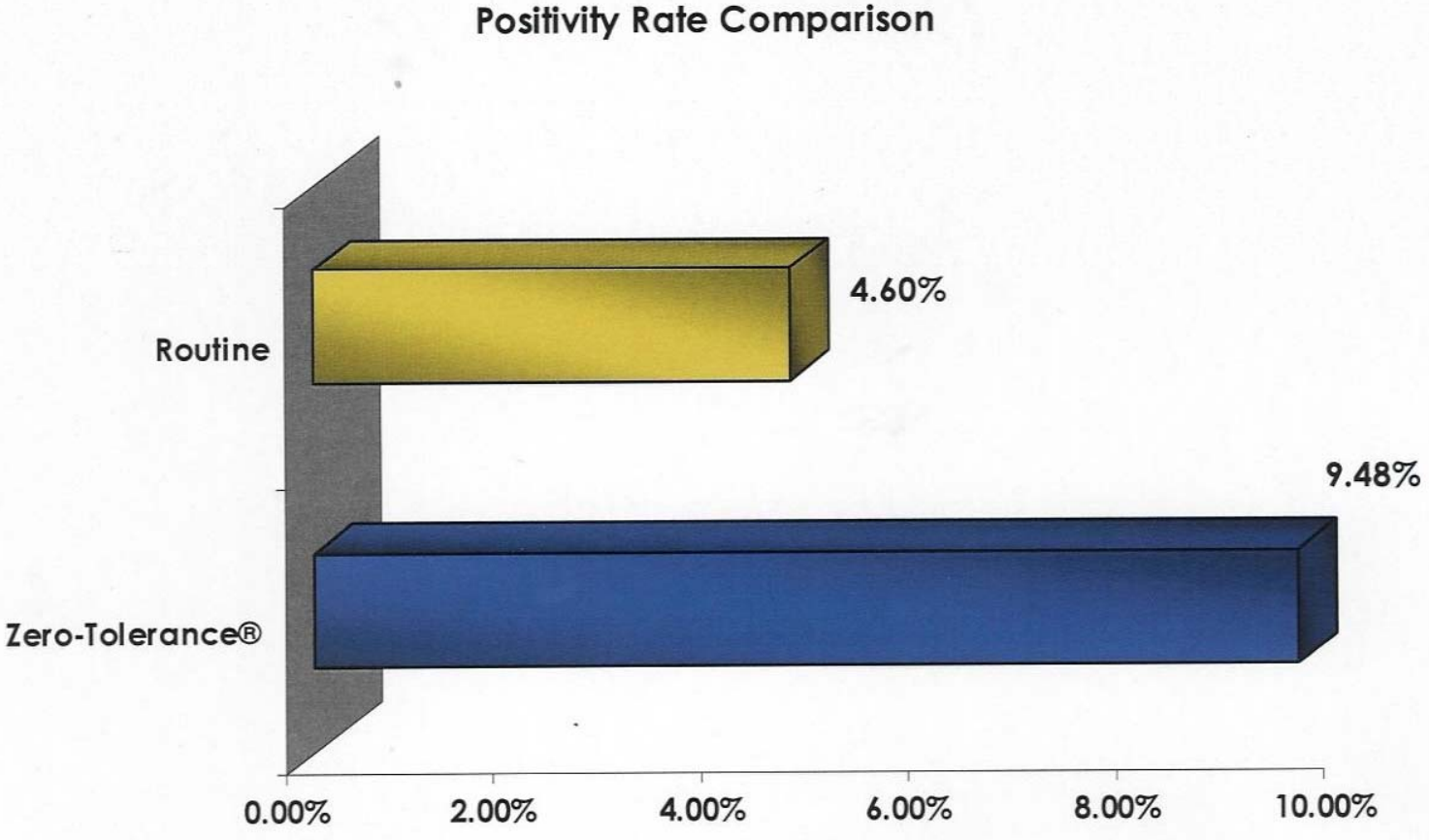
TEST THRESHOLD COMPARISON TABLE

Drug Class	Routine/DOT Screen	Zero-Tolerance® Screen	Routine/DOT Confirmation	Zero-Tolerance® Confirmation
Amphetamines	1,000 ng/mL	1000 ng/mL*	500 ng/mL	100 ng/mL
Barbiturates	300 ng/mL	200 ng/mL	200 ng/mL	100 ng/mL
Benzodiazepines	300 ng/mL	300 ng/mL	200 ng/mL	100 ng/mL
Cocaine/Crack	300 ng/mL	150 ng/mL	100 ng/mL	50 ng/mL
Marijuana	50 ng/mL	20 ng/mL	15 ng/mL	5 ng/mL
Opiates (Narcotics)	2,000 ng/mL	100 ng/mL	2000 ng/mL	50 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL	20 ng/mL	10 ng/mL

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Zero-Tolerance® Positivity Rate at Least Two Times That of Routine Testing



DETECTION TIME PERIODS



Zero-Tolerance® Detects Drugs for a Longer Period of time

Zero-Tolerance® detects drugs generally 2-3 times longer than onsite devices and routine laboratory testing.

PERIOD OF DETECTION COMPARISON TABLE		
Drug Class	Routine/DOT Testing	Zero-Tolerance Drug Testing®
Amphetamines	Up to 3 days	Up to 5 days
Barbiturates-Short Acting	Up to 3 days	Up to 6 days
Barbiturates-Long Acting	Up to 10 days	Up to 30 days
Benzodiazepines	Up to 5 days	Up to 30 days
Cocaine/Crack	Up to 3 days	Up to 5 days
Marijuana-Casual	Up to 3 days	Up to 10 days
Marijuana-Chronic	Up to 10 days	Up to 50 days
Opiates (Narcotics)	Up to 3 days	Up to 5 days
Phencyclidine (PCP)	Up to 3 days	Up to 6 days

FUTURE MODIFICATIONS

- Add 45 day window from positive test until next random test
  - Allows focus to be on education of student-athlete instead of punishment
- If NCAA test occurs during 45 day window, restrict results from affecting institutional consequences

FUTURE MODIFICATIONS

- Possibly add Pre-Season team testing
- Consent Form
  - Request phone number for contact information
  - Address issue of non-contact
    - Unable to contact student-athlete after reasonable attempt

THANK YOU



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