



POLICY STATEMENT 53

THE UNIVERSITY'S PARTICIPATION IN THE PRE-TRIAL INTERVENTION PROGRAM OF EAST BATON ROUGE PARISH

POLICY DIGEST

Monitoring Unit: Office of the Dean of Students
Initially Issued: May 8, 1980
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I. PURPOSE

The basic purpose of this policy statement is to outline the University's policy governing its participation in the Pre-Trial Intervention Program of the District Attorney's office of East Baton Rouge Parish.

Additional purposes are to: state how the University's participation in the PreTrial Intervention Program relates to the Code of Student Conduct; state the University's policy and procedures governing the arrest of students on campus by the LSU Police Department for alleged misdemeanor violations; and state the University's policy on charging students with violations of the Code of Student Conduct, in lieu of arrests or the use of misdemeanor summons.

II. DEFINITIONS

Misdemeanor: A misdemeanor is a criminal offense of a less serious nature than a felony, thus, a minor crime. Any offense defined by the Criminal Code of Louisiana as being a misdemeanor, e.g. , shoplifting of items of a value of less than \$100, damage to property of less than \$100, and the possession of a small amount of marijuana.

Misdemeanor Summons: A misdemeanor summons is a written order, issued and signed by a police officer, stating the offense charged and the name of the alleged offender, and commanding him to appear before a designated court at a stated time. The laws of Louisiana allow, under certain circumstances, the issuance of a misdemeanor summons in lieu of arrests.

Pre-Trial Intervention Program: A program developed by the District Attorney of East Baton Rouge Parish with the cooperation of the judges of the 19th Judicial District. Under this program, a student who is charged with a misdemeanor violation, or a non-violent felony crime, and who meets other criteria for participation, may voluntarily choose to accept in lieu of a trial a period of supervision and counseling by the Office of the District Attorney and/or other organizations, e.g. universities and voluntary counseling organizations.

III. GENERAL POLICY

Consistent with the University's commitment to provide students with due process protection in disciplinary matters, no University disciplinary sanction shall be imposed upon a student except in accordance with the provisions of the Code of Student Conduct. The Code lists specific student conduct that is deemed to be misconduct, and hence, a violation of the Code. Included in the Code's list of

misconduct is the commission of an act on campus that would be in violation of the Criminal Code of the State of Louisiana. Thus, when there is probable cause to believe that a crime has been committed by a student on campus, the University may have the option of: charging the student under the Criminal Code; charging the student under the provisions of the Code; or taking both actions.

In developing a general policy and a specific procedure to govern the exercising of these options, it is the University's desire to assure all students of equal protection under the law, i.e., all students who are similarly situated will be treated alike. It is also the University's policy to provide equal treatment for all students who are charged with the same alleged violation, whether the administrative procedure used in processing these charges grows out of the provisions of the Code of Student Conduct, or grows out of the provisions governing the University's participation in the PreTrial Intervention Program.

In felony crimes on campus, i.e., serious crimes, the student shall always be arrested and, under certain circumstances, shall also be charged with a violation under the Code of Student Conduct.

In misdemeanor crimes, the University's policy is to be more flexible and allow for either arrest, use of the misdemeanor summons, and/or charging the student under the Code of Student Conduct. It is the policy of the University, whenever reasonable and practical, to issue a misdemeanor summons in lieu of arrest. Consistent with this policy, the arresting officer shall have the authority to make the decision as to the appropriateness of an arrest, as opposed to issuing a misdemeanor summons.

In situations in which a third party, e.g. another student, files a complaint with the LSU Police Department against a student, it shall be the University's policy to follow the wishes of the complainant as to whether or not the complaint will be charged under the Code of Student Conduct or under the Criminal Code of Louisiana.

Once an arrest is made, or a misdemeanor summons is issued, the case becomes the responsibility of the off-campus civil authorities. The University relies on and abides by all decisions made by off campus civil authorities; however, it is the University's policy not to drop charges unless convincing evidence is presented that the University did not have sufficient cause for taking its initial action.

A student who is arrested on campus for a misdemeanor crime may be, under certain circumstances, eligible to participate in the Pre-Trial intervention Program administered through the District Attorney's Office of East Baton Rouge Parish. The University recommends that eligible students give serious consideration to participating in this worthwhile program.

IV. OPERATING PROCEDURES

A. Arrests and/or Filing Charges Under the Code of Student Conduct

One of the responsibilities of the LSU Police Department is apprehending on-campus violators of the Louisiana Criminal Code and the Code of Student Conduct. Students taken into custody by the LSU Police Department for alleged minor misdemeanor crimes that are also listed as specific violations of the Code of Student Conduct will normally be charged under the Code of Student Conduct.

If a student is arrested and charged with a misdemeanor crime, or issued a misdemeanor summons, the University may exercise its legal right to also charge the student with a violation of the Code of Student Conduct. The exercising of this right will be at the discretion of the University, and will be made on the basis of the action that is in the best interest of the University, with due consideration being

given to the needs of the student.

Charges under the Code of Student Conduct will be filed with the Dean of Students who will process the charges using the procedure outlined in the Code.

B. Student Participation in the Pre-Trial Intervention Program

Students who are arrested on misdemeanor charges, or who are issued a misdemeanor summons, may request through the District Attorney's Office, to be allowed to participate in the Pre-Trial Intervention Program of East Baton Rouge Parish. To be eligible for participation in the Pre-Trial Intervention Program, a student must meet the following criteria:

1. Limited to misdemeanor violations and non-violent felony crimes.
2. Males and females between ages of 17-25, may be waived in certain cases.
3. Consent: The arresting officer and the victim must concur with program participation.
4. Restitution when required.
5. Drug possession only, excluding drugs classified as narcotics.
6. No continuing pattern of criminal behavior.

Participation in this program is optional and voluntary, and the student is not required to admit guilt. The choice is between prosecution or participation in the Pre-Trial Intervention Program. If the student requests to be allowed to participate, and is accepted by the District Attorney's Office, an Enrollment and Participation Agreement must be signed. By this agreement, the student waives his right to a speedy trial and assumes a "moral obligation" to abide by all of the specific conditions of the Pre-Trial Intervention Program. If the student violates the provisions of the agreement, or is arrested during the two-year period of the program, he may be referred to trial on the original charges.

C. The University's Participation in the Pre-Trial Intervention Program

The University has participated in this program since its beginning in 1975. The University's role is to provide supervision and counseling for students who are allowed to participate in the program by the District Attorney's Office. The District Attorney allows the University reasonable latitude in developing the procedures followed in fulfilling its obligation of supervision and counseling. In developing these procedures, an effort has been made to provide equal protection for all students, whether the students are enrolled in the Pre-Trial Intervention Program, or in a program of rehabilitation as a result of supervision and counseling imposed under the provisions of the Code of Student Conduct.

The University's participation in the Pre-Trial Intervention Program is administered through the Office of the Dean of Students.

As a condition of participation, the District Attorney's Office requires the student to waive his rights to a speedy trial and to request that he be allowed to participate in the Pre-Trial Intervention Program. As a condition of participation, the University requires the student to waive his right to a hearing under Section 9.2 of the Code of Student Conduct. This procedure is consistent with the provisions of "The

Pre-Trial Intervention Program Enrollment and Participation Agreement" which each participant voluntarily signs and which reads in part as follows, "I understand that if my case is referred to another agency, I will be required to follow all the rules and regulations of that agency." Students who will not make this commitment to the University will be referred back to the District Attorney's Office. Students who voluntarily agree to participate in the University's program will be accepted under the following conditions and stipulations:

1. The student will remain in the program for two years, unless he graduates, resigns, or otherwise leaves the University prior to the end of the two-year period, or is referred back to the District Attorney's Office. Students shall be referred back to the District Attorney's Office for any of the following reasons:
 - a. If arrested.
 - b. If charged and found guilty of an additional violation of the Code of Student Conduct.
 - c. If a violation of the conditions of probation occurs.
 - d. If counseling appointments are not kept promptly and consistently with the re-determine schedule.
 - e. If the student leaves the University.
2. Each student will initially be placed on probation to the Committee on Student Conduct. At the end of the first full regular semester following entry into the program, the student will become eligible to request the lifting of this probation, i.e. , a student who enters the program during the fall semester will become eligible at the end of the spring semester; a student who enters the program during the spring semester will become eligible at the end of the next fall semester; and a student who enters the program during a summer session will become eligible at the end of the fall semester. Such a request will be granted unless the Dean of Students recommends that the probation be continued for a stated period of not more than one additional semester for specifically outlined reasons, and the recommendation is accepted and approved by the Vice President for Student Life & Enrollment. The lifting of probation does not relieve the student of the responsibility of continuing to participate in other requirements of the program.
3. During the program, the student will be required to meet with a staff member of the Office of the Dean of Students on a regular basis. The frequency of these counseling sessions will be determined by the Dean of Students.
4. During the program, the student may also be required to participate in other individual and group counseling programs offered on campus, and in some cases, off campus.
5. At the end of two years, provided the student has fulfilled all of the requirements outlined in 1 through 4 above, the University will officially notify the District Attorney's Office that the student has successfully completed the University's program under Pre-Trial Intervention.

Related documents: The Louisiana State University Handbook of Rights and Responsibilities in the Student-University Relationship; The Code of Student Conduct; The Criminal Code of Louisiana; correspondence between the Office of the Vice Chancellor for Student Services and the Office of the District Attorney of East Baton Rouge Parish during the period 1974 to 1980; reports prepared by the District Attorney's Office relating to the Pre-Trial Intervention Program. This policy statement was

forwarded to the Program Director of the Pre-Trial Intervention Program of the District Attorney's Office, with the request that it be reviewed to verify its accuracy in describing the Pre-Trial Intervention Program and its correctness in outlining the conditions established by the District Attorney's Office for an individual to become a participant in the Program. Assurance on these points was received from the Program Director prior to promulgation.