

FAQ'S FOR CALIFORNIA STATE UNIVERSITY EMPLOYEES ABOUT FEDERAL IMMIGRATION ENFORCEMENT ACTIONS ON UNIVERSITY PROPERTY¹

Many members of the CSU community are concerned about immigration enforcement actions occurring across the country and have asked about the possibility that enforcement actions could occur at a CSU campus. This set of FAQs provides guidance for how you should respond in such a situation. Please bear in mind that Department of Homeland Security (DHS) policies are in transition²; we may update this guidance as warranted.

1. Will University Police Officers work with federal immigration officers³ to apprehend and remove individuals from campus, absent evidence of a judicial warrant?

Campus police officers will not contact, detain, question or arrest an individual solely on the basis of suspected undocumented immigration status or to discover the immigration status of any individual, and University Police (UPD) will not undertake joint efforts with federal immigration enforcement authorities to investigate, detain or arrest individuals for violation of federal immigration law.

Nonetheless, if U.S. Immigration and Customs Enforcement (“ICE”) or U.S. Customs and Border Protection (“CBP”) officers conduct immigration enforcement activities on campus, UPD may be called in to prevent injuries or property damage. In addition, where other federal law enforcement agencies such as the FBI or DEA have reason to pursue criminal suspects on campus, UPD may cooperate with those efforts to enforce criminal laws.

On July 29, 2016, Chancellor White issued a **memorandum to the CSU Presidents**, advising that each campus must adopt a policy consistent with the systemwide guidance, providing only limited assistance where legally necessary to federal immigration enforcement officers. These guidelines explain that jurisdiction over enforcement of federal immigration laws rests with the federal government and not with UPD. UPD is devoted to maintaining a safe and secure environment to support the CSU’s mission. UPD will not divert their resources from this mission in order to enforce federal immigration laws, unless legally required to do so.

2. Can CSU prevent federal immigration enforcement officers from coming on campus or entering CSU property?

Generally, no. CSU is a public university and a large portion of CSU property is open to the general public. The areas on campus that are open to the general public are also open to federal

¹ CSU’s Office of General Counsel extends its thanks and appreciation to the University of California’s Office of General Counsel for sharing the **UC’s FAQs**, upon which CSU modeled this document.

² See DHS Fact Sheets for updates to specific policies, and further guidance: <https://www.dhs.gov/news-releases/fact-sheets>

³ Federal Immigration Enforcement officers could include members of the U.S. Immigration and Customs Enforcement (ICE), or the U.S. Customs and Border Protection (CPB), both arms of the Department of Homeland Security (DHS).

immigration enforcement officers. CSU does not have authority to prohibit federal immigration enforcement officers from coming on campus to those public areas even if their purpose is to enforce federal law.

However, public access is limited in certain areas of CSU campuses and property because of privacy concerns, operational needs, or safety considerations. Campus buildings and spaces in which access is physically restricted, such as by key card, locked doors or monitored entryways, including University housing, fall into this category. Limited access spaces also include some that may normally be left unlocked during the workday, including, for example, administrative or faculty offices, classrooms while classes are in session, locker rooms, research laboratories, kitchens and food preparation areas, maintenance areas, storage facilities, and physical plant operations.

CSU employees are not required to affirmatively assist federal immigration authorities or grant permission to enter limited access space when officers do not have a judicial warrant to enter, and it is appropriate to seek guidance from University Counsel to understand your duties in particular circumstances. **However, federal law prohibits you from hiding evidence, concealing or hiding individuals who are the subjects of law enforcement activity, or interfering with an arrest. Further, you should not put yourself in physical danger.**

If an immigration officer seeks your consent to enter limited access space or requests information or documents from you about another individual, ***take steps to ensure that you have authority to provide the requested access, information or documents. If necessary, confirm the authority you do have by consulting with your Supervisor, and/or the office of the Vice President in charge of your division. Ask the officer for their name, identification number and agency affiliation; ask for a copy of any warrant they may have, inform the officer that you are not obstructing their process but need to contact University Counsel and/or UPD for assistance and then contact **University Counsel** and/or UPD.***

3. What federal immigration enforcement officers might seek access to the campus, and what authority do they have?

The immigration officers who seek to apprehend and remove (or “deport”) an individual unlawfully present in the United States are most often officers of ICE, who are part of the agency’s Enforcement and Removal Operations (“ERO”). CBP officers could also seek to apprehend and remove individuals on certain campuses. These ICE and CBP officers work for the DHS and they are typically acting on civil, not criminal, authority. **The warrants these officers carry to apprehend individuals are generally administrative warrants that do not authorize officers to enter limited access areas of the University without consent. See Question 6 below for discussion of the differences between types of warrants.**

In some cases, ICE and CBP officers may be exercising criminal enforcement powers or may work with criminal law enforcement officers who may present a criminal arrest or search warrant that gives them greater authority to enter CSU premises that are not open to the general public. Execution of judicial warrants does not require consent.

ICE and CBP officers may appear on campus for reasons unrelated to apprehending and removing an individual they believe is unlawfully present in the United States. For example, many international students participate in the U.S. State Department's Student and Exchange Visitor Program (SEVP). The CSU is required to report certain information about SEVP students to ICE, and ICE may come to CSU campuses to meet with SEVP students and/or CSU staff who have responsibilities under the SEVP program. ICE and CBP may also come on campus in connection with regulations that do not involve alleged immigration violations. **It is a mistake to assume that any ICE employee visiting campus is present to apprehend or remove a member of the CSU community. False rumors about ICE enforcement actions on campus can spread anxiety and panic. If you observe ICE employees on campus and have concerns about their activities, call UPD.**

4. Can federal immigration enforcement officers enter houses, residence halls, and apartments without consent from occupants?

As a general matter, individuals have a reasonable expectation of privacy in their homes, including homes both on and off campus property. The immigration officers who are seeking to apprehend and remove an individual pursuant to a civil or administrative warrant **do not** have the authority to enter the premises without the occupant's consent. In fact, the occupant need not respond to the officer's questions or statements. Accordingly, undocumented individuals have a personal choice whether to grant an immigration officer with a civil or administrative warrant consent to enter their residence, and whether to speak with the immigration officer. Undocumented individuals may seek legal advice relating to their immigration status and can find a list of qualified nonprofit legal service providers [here](#)⁴. In contrast, **when a law enforcement officer has a criminal search or arrest warrant that is signed by a judicial officer, the law enforcement officer does not need consent to enter the premises or arrest an individual named in the warrant. See Question 6 below for discussion of the differences between types of warrants.**

If a federal immigration enforcement officer asks you, as a CSU employee, to allow access into University housing, with or without a warrant, ***ask the officer for his or her name, identification number and agency affiliation; ask for a copy of any warrant or subpoena presented; inform the officer that you are not obstructing their process but need to consult with University Counsel and/or UPD for assistance, and contact **University Counsel** and/or UPD.***

5. Will federal immigration enforcement agencies target CSU campuses?

We do not know whether federal immigration enforcement agencies will conduct enforcement activities on CSU campuses. Under the Obama administration, the DHS issued memos to ICE and CBP officers disfavoring arrests, interviews, searches, and surveillance in "sensitive locations,"

⁴ A list of legal support services can be found at the following link: <https://www2.calstate.edu/attend/student-services/resources-for-undocumented-students/Pages/legal-support-services.aspx>.

including schools, university campuses, hospitals, and institutions of worship. The ICE memo⁵ also includes sites during the occurrence of a public demonstration, such as a march, rally, or parade. The CBP memo⁶ also includes “community centers.” A DHS “Q&A” dated February 21, 2017⁷ indicates that the “sensitive locations” guidance memos remain in effect. However, these memos could be withdrawn or immigration enforcement officers could fail to follow them. Even while these memos are in effect, they do not provide a guarantee that ICE and CBP will never take these disfavored actions on CSU campuses. In fact, the sensitive locations guidance is subject to explicit exceptions for enforcement actions involving national security or terrorism matters, or involving the immediate arrest or pursuit of a “dangerous felon, terrorist subject, or [others who] present an imminent danger to public safety.”

6. What does a federal immigration enforcement warrant allow an immigration officer to do?

There are generally two types of warrants used by federal immigration enforcement officers: an administrative warrant, and a judicial warrant. These documents may take various forms, but in general look like the documents seen [here](#).

An administrative warrant might also be called a Warrant of Removal/Deportation. This type of warrant does not allow an officer to enter and search a home (including a University dorm residence), unless a resident of that home gives consent. An administrative warrant might allow an officer to arrest the person described in the warrant, if that person is in a public space.

A judicial warrant might be a search warrant, or an arrest warrant. In either case, it must describe sufficiently the residence that is to be searched, or the person to be arrested (either by name, or clear description). In every instance, a judicial warrant is only effective if it is signed by a federal judge.

⁵ The ICE “sensitive locations” memo can be found here: <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>.

⁶ The CBP “sensitive locations” memo can be found here: <https://foiarr.cbp.gov/streamingWord.asp?i=1251>.

⁷ The DHS Q&A can be found here: <https://www.dhs.gov/news/2017/02/21/qa-dhs-implementation-executive-order-border-security-and-immigration-enforcement>.

7. What should I do if a federal immigration enforcement officer presents me with a warrant?

If you are presented with a warrant by a federal immigration enforcement officer seeking to enter CSU housing or other limited access areas of your workspace on CSU property, take steps to ensure that the immigration enforcement officer has authority to enter the property before admitting them. As noted above, administrative warrants **do not** authorize entry without consent, but a judicial search or arrest warrant may authorize entry without consent. Because it can be difficult to distinguish among different kinds of warrants, ***ask the officer for his or her name, identification number and agency affiliation; ask for a copy of the warrant or subpoena presented, inform the officer that you are not obstructing their process but need to consult with University Counsel and/or UPD for assistance, and contact **University Counsel** and/or UPD.***

8. What should I do if a federal immigration enforcement officer asks me for or gives me a subpoena for personally identifiable private information or records about a student, employee or patient?

Personal and personally identifiable information in CSU records, and those records themselves, are protected by a wide variety of privacy laws and University policies (for example: Information Practices Act [IPA], Family Education Rights & Privacy Act, [FERPA], Health Insurance Privacy and Accountability Act [HIPAA], Confidentiality of Medical Information Act [CMIA], and CSU policy ICSUAM 8025-00). As a CSU employee, you are required to maintain the confidentiality of personal and personally identifiable information, and records containing such information. CSU generally requires federal immigration enforcement officers and other law enforcement officers to produce a valid subpoena authorizing the disclosure of student or patient records that contain personal or personally identifiable information. Federal immigration enforcement officers generally have no greater access to student or other CSU records than any member of the public unless they have a valid subpoena.

If you receive a request for personal or personally identifiable information or records containing such information, or if a federal immigration enforcement officer gives you a warrant or subpoena seeking such records or information, you should ***take steps to ensure that you have authority to provide access to the specified records or information. If necessary, confirm the authority you do have by consulting with your Supervisor, and/or the office of the Vice President in charge of your division. Ask the officer for his or her name, identification number and agency affiliation; ask for a copy of any warrant or subpoena presented, inform the officer that you are not obstructing their process but need to contact University Counsel or UPD for assistance, and contact **University Counsel** and/or UPD.***

9. Does it make a difference if a student is an international student?

International students and scholars are subject to different requirements. Universities are required to exchange data with federal immigration agencies on the status of international students on F-1, J-1 or M visas through use of a government database named "SEVIS," which is

part of the Student and Exchange Visitor Program (SEVP). In addition, certain information about those students is required to be retained and produced by CSU upon request from DHS and ICE.

According to the Department of Education, FERPA permits institutions to comply with information requests from DHS in order to comply with the requirements of the SEVP program. However, this does not create a blanket waiver of an international student's FERPA rights; the information that can be disclosed is limited to the categories listed in DHS regulations, and a request must be made to a campus Designated School Official (DSO). Other information about international students is entitled to the same FERPA protection that otherwise governs student records. **If you are not a designated DSO, you should refer any DHS or ICE request for information about an international student to the DSO and [University Counsel](#) and/or UPD.**

10. What if I am uncomfortable approaching UPD?

As law enforcement professionals, members of UPD likely are best equipped to interface with federal law enforcement officers. UPD also is available at all hours and members of UPD are able to contact University Counsel as needed. For this reason, we encourage members of the campus community to reach out to UPD if you are approached by a federal officer.

For individuals who are uncomfortable contacting UPD, most campuses have designated an alternative resource contact who can assist. Those designations can be found at the particular campus' resource page, which can be found [here](#).