

Immigration Protocol NOCCCD



Presenters:

- ← Ziza Delgado-Noguera,
Professor Ethnic Studies
Fullerton College
- ← Julie Kossick, Associate
Vice Chancellor Human
Resources

Exercising Your Rights On Campus: How to Respond if ICE Comes onto Campus

- ▶ Public vs. Non-public (Private) Areas of Campus
- ▶ Judicial Search Warrants vs. Administrative Arrest Warrants
- ▶ NOCCCD Protocol When Responding to Visits from ICE and Immigration-Related Requests

How to Respond if ICE Comes onto Campus

If ICE shows up on campus and demands information about a student, asks to see a student's records, is looking for a student, or requests access to a non-public (private) area of campus, how do we respond?

First and foremost, NOCCCD personnel are prohibited from providing ICE or other immigration officers information, access to student records, or access to non-public (private) areas of campus without a court order or warrant.



ICE Access to Public vs. Private Areas (Includes files, computers, records etc)

- ▶ If ICE enters the campus, they can enter public areas. They cannot, however, enter non-public (private) areas of the campus without a Judicial search warrant signed by a judge or magistrate (No Employee shall consent or otherwise volunteer information to ICE to comply with FERPA).
- ▶ So, What Are Public Areas?
 - ▶ Public areas are those areas the public reasonably knows they can enter or occupy such as college cafeterias, parking lots, lobbies, hallways, waiting areas, college centers.
 - ▶ Anyone - including ICE agents - can enter *public* areas of the campus without permission.
- ▶ Being in a public area, however, does NOT give ICE the authority to stop, question, or arrest just anyone.
 - ▶ If the ICE officer makes it clear you are not free to leave, the officer (just as is required of any law enforcement officer) must have probable cause to continue to detain you.

ICE Access to Public vs. Private Areas

What Are Non-Public (Private) Areas?

Non-public (private) areas are spaces that are not open to the general public as prescribed by law or custom. They include employee offices, spaces where only authorized persons may enter or access, classrooms, and locations where legally protected private/confidential information of employees or students are stored.

- No one (including ICE agents) can enter or have access to a non-public (*private*) area of campus or access confidential student or employee records without a **judicial search warrant**.

TIP: Mark private areas with “Private,” “Not Open to the Public,” or “Employees Only”

- An administrative arrest warrant does not give an officer permission to enter a non-public (private) area.

ICE Access to Public & Private Areas

What Are Non-Public (Private) Areas? continued...

- If ICE agents try to enter a private area, let them know that the area is private and that they are not permitted to enter without a judicial search warrant.

“I am not authorized to give you permission to enter. Please wait and I will contact Campus Safety.”

Judicial Warrant Signed By A Judge

If a judicial search warrant is presented:

- A) Immediately contact your supervisor, Campus Safety, & President's Office They will assist in this process.
- B) Ask for a copy and read it. Confirm the address is correct, that it has not expired, and that it has a judge's signature. If these items are missing the warrant is not valid.
- C) Also send a copy of the warrant to the Office of Diversity and Compliance.
- D) Do not give access until the administration has approved access.

AO 91 (Rev. 12/09) Search and Seizure Warrant

UNITED STATES DISTRICT COURT
for the
Eastern District of California

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address)) Case No. _____

540 Oak Avenue)
Davis, California 95616)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer 2:11-SW-0161 EFB

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the EASTERN District of CALIFORNIA
(Identify the person or describe the property to be searched and give its location):
SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be seized):
SEE ATTACHEMNT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

YOU ARE COMMANDED to execute this warrant on or before 5-9-2011
(not to exceed 14 days)

in the daytime 6:00 a.m. to 10 p.m. at any time in the day or night as I find reasonable cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge _____
(name)

I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box) for _____ days (not to exceed 30).
 until, the facts justifying, the later specific date of _____.

Date and time issued: 4-25-2011
9:10:00 AM

City and state: SACRAMENTO, CALIFORNIA 
JUDGE'S SIGNATURE

EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE
Printed name and title

Judicial Warrant Signed By A Judge Continued...

Valid judicial search warrants allow ICE to enter the non-public (private) areas of the campus, but they must stay within the parameters of the warrant. For example. If the warrant states they are searching for a grown adult they may not search file drawers.

If it is not included on the warrant, you may refuse ICE entry. If they enter anyway you should continue to refuse consent, document their actions, but don't obstruct their entry. You should immediately contact Campus safety and the President's Office.

Administrative Warrant

If an administrative arrest warrant is presented:

It is easily identifiable, ICE administrative arrest warrants (Form I-200 and I-205) read, “Department of Homeland Security.” These warrants identify an individual suspected of being subject to deportation and do authorize immigration agents to take the identified person into custody.

These documents are not reviewed or issued by a court or judicial officer.

U.S. Department of Homeland Security Warrant for Arrest of Alien

File No. [REDACTED]
Event No: P001606000346
Date: September 1, 2016

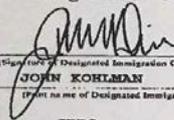
FINS #: 1150253900

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:
[REDACTED]
(Full name of alien)

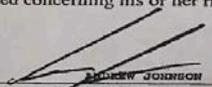
an alien who entered the United States at or near [REDACTED] on [REDACTED] [REDACTED] is within the country in violation of the immigration laws and is therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.


(Signature of Designated Immigration Officer)
JOHN KOHLMAN
(Print as me of Designated Immigration Officer)
SDDO
(Title)

Certificate of Service

Served by me at Portland, OR on September 28, 2016 at 06:20 AM.
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.


(Signature of officer serving warrant)
ANDREW JOHNSON
(Title of officer serving warrant)

Form I-260 (Rev. 09-01-07)

Administrative Warrant

- If ICE agents try to use an *administrative warrant* to enter non-public areas or access confidential records, remember these warrants do not give ICE the authority to enter private areas or to get access to documents. You may deny ICE access to these areas and records.
- Administrative arrest warrants also do not give ICE or other LEO's the right to enter non-public (private) areas for purposes of making an arrest.
They would have to wait until the person enters a public area to make an arrest, or they would have to obtain a judicial *search warrant*.

See also: <https://www.nbcnews.com/news/latino/man-stopped-ice-uses-know-your-rights-training-prevents-immigrants-n988026>

NOCCCD Protocol for Immigration-Related Requests

1. Staff shall inform the Campus Safety Office and the Office of the President of the presence of ICE or other persons pursuing immigration related investigations on our campuses.
2. If a warrant, subpoena, or court order is presented, Campus Safety or the President's Office should also notify the Vice Chancellor of Human Resources. When the warrant or subpoena is clearly not enforceable, Campus Safety or the President's Office shall deny the access or information requested.
3. When the validity of a warrant or subpoena is unclear it is necessary to first obtain legal advice from our District's Counsel which will be done by the Office of the President or Human Resources.

NOCCCD Protocol for Immigration-Related Requests (Cont.)

4. In any instance where the request involves conducting an I9 audit or request for employee information refer the officer to the Vice Chancellor for Human Resources.
5. If ICE or other immigration agents/officers are found walking or parked on campus, staff should contact Campus Safety and the President's Office to notify them of their presence. Campus Safety Officers should approach them, provide them with a copy of Board Resolution No. 16/17-18 (https://www.nocccd.edu/files/resolution-no-16-17-18-support-for-students-and-privacy-of-student-records-2017-03-14_30616.pdf) and inquire into their reason for being on campus. In all instances Campus Safety or an administrator should accompany ICE or other immigration officers until they leave.

General Tips

- ▶ Do NOT volunteer documentation or information to ICE agents. If ICE agents have questions or requests, ask if they have a warrant or subpoena, then say, "Please wait a moment while I contact someone who can help you." Then contact Campus Safety and/or the President's Office. Identify a space for them to wait and stay with them
- ▶ Be sure to tell them this is the District's protocol that everyone must follow
- ▶ Be sure to ask for their business card or name, title, and contact information
- ▶ Any student or employee approached by ICE has the right to remain silent
- ▶ Be proactive if you see ICE on campus
 - ▶ Approach them as soon as possible for the safety and security of the student body
 - ▶ Inquire about the nature of their visit
 - ▶ Someone should stay with them until they leave
- ▶ Utilizing your LEGAL rights may be met with frustration and or hostility.