

## **FAQs FOR CALIFORNIA STATE UNIVERSITY EMPLOYEES ABOUT FEDERAL IMMIGRATION ENFORCEMENT ACTIONS ON UNIVERSITY PROPERTY<sup>1</sup>**

Many members of the CSU community are concerned that potential immigration enforcement actions could occur at a CSU university. This set of FAQs provides guidance for how a responsible university employee should respond to immigration enforcement actions at a CSU university. Please bear in mind that Department of Homeland Security (DHS) policies<sup>2</sup> are subject to change; we will update this guidance as those policies are issued or revised.

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

**University 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.**

If federal immigration officers, including U.S. Immigration and Customs Enforcement (“ICE”), U.S. Customs and Border Protection (“CBP”) or other federal officers working on their behalf, 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.

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 to enforce federal immigration laws, unless legally required to do so.<sup>3</sup>

The California law prohibiting state and local law enforcement officers from using taxpayer funds to enforce federal immigration law, subject to several narrow exceptions, was previously challenged and upheld in federal court. Specifically, the Ninth Circuit court of appeal held the law was valid and did not conflict with federal law or violate the Supremacy Clause of the U.S. Constitution.<sup>4</sup>

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<sup>1</sup> 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.

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

<sup>3</sup> See California Government Code §7284 and CSU Systemwide Police Policy re Immigration Violations: [https://www.calstate.edu/systemwide-campus-safety-security/Documents/Immigration\\_Violations.pdf](https://www.calstate.edu/systemwide-campus-safety-security/Documents/Immigration_Violations.pdf).

<sup>4</sup> A copy of the decision from the Ninth Circuit upholding SB 54 is publicly posted: [https://oag.ca.gov/system/files/attachments/press-docs/9th\\_cir\\_ca\\_opinion%20SB%2054.pdf](https://oag.ca.gov/system/files/attachments/press-docs/9th_cir_ca_opinion%20SB%2054.pdf).

## 2. Can CSU prevent federal immigration enforcement officers from coming onto 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 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 universities and property because of privacy concerns, operational needs, or safety considerations. University 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. Nonpublic areas of the university 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 nonpublic areas of the university when officers do not have a judicial warrant or court order to enter. Each university must designate an individual responsible for verifying the legality of any warrant, court order, or subpoena.<sup>5</sup> It is appropriate to seek guidance from the University official designated point of contact to verify the legality of documents, your University Counsel and/or UPD 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 nonpublic areas of the campus or requests information or documents from you about another individual, ***respectfully inform the officer that you are not authorized to provide access to nonpublic areas of the campus and must contact the university designated point of contact to verify the immigration enforcement documents and then immediately contact that individual. If the officer declares that exigent circumstances exist and demands immediate access, comply with the officer's orders and immediately alert UPD. If the officer does not declare that exigent circumstances exist, ask the officer for their name, identification number and agency affiliation and record that information; inform the officer that you are not obstructing their process, but the designated campus official must review the documentation presented. If the designated individual cannot be reached, you may also contact University Counsel and/or UPD for assistance.***

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<sup>5</sup> See California Education Code § 66093.3.

### 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 universities. Recent executive action permits DHS to deputize other federal officers to engage in immigration enforcement activities on behalf of the agency. These federal officers work for, or on behalf of 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 nonpublic 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.

**Immigration 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 universities 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 the university 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 your designated campus official or 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 university 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.<sup>6</sup>

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<sup>6</sup> The Immigrant Legal Resource Center posts helpful resources, including the attached: “Know Your Rights and What Immigrant Families Should Do Now.” See <https://www.ilrc.org/resources/know-your-rights-and-what-immigrant-families-should-do-now>.

Undocumented individuals may seek legal advice relating to their immigration status. Free legal immigration services are available to CSU students and employees. See [here](#).<sup>7</sup>

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, ***respectfully inform the officer that you are not authorized to provide access to nonpublic areas of the campus and must contact the university designated point of contact to verify the immigration enforcement documents and then immediately contact that individual. If the officer declares that exigent circumstances exist and demands immediate access, comply with the officer's orders and immediately alert UPD. If the officer does not declare that exigent circumstances exist, ask the officer for their name, identification number and agency affiliation and record that information; inform the officer that you are not obstructing their process, but the designated campus official must review the documentation presented. If the designated individual cannot be reached, you may also contact University Counsel and/or UPD for assistance.***

#### **5. Will federal immigration enforcement agencies target CSU universities?**

Under past administrations, the DHS issued memos to ICE and CBP officers disfavoring arrests, interviews, searches, and surveillance in “sensitive locations,” including schools, university campuses, hospitals, and institutions of worship. This guidance was rescinded by the Trump administration. However, the rescission of this guidance does not necessarily mean that federal immigration enforcement agencies will conduct enforcement activities on CSU universities; only that they will not refrain from doing so.

#### **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](#).<sup>8</sup>

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

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<sup>7</sup> In 2018, the California Department of Social Services (CDSS) launched the California State University Immigration Legal Services Project. This project provides free immigration legal services to all current CSU students, staff (state and auxiliary), faculty, immediate family members of current students, recent graduates (who graduated within two years), and newly admitted students who have accepted their admissions. For more information, see <https://www.calstate.edu/attend/student-services/resources-for-undocumented-students/Pages/legal-support-services.aspx>.

<sup>8</sup> For more information, see [Presentation Slides](#).

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.

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

As noted above, administrative warrants **do not** authorize entry without consent, but a judicial search or arrest warrant may authorize entry without consent. 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, ***respectfully inform the officer that you are not authorized to provide access to nonpublic areas of the campus and must contact the university designated official point of contact to verify the immigration enforcement documents and then immediately contact that individual. If the officer declares that exigent circumstances exist and demands immediate access, comply with the officer's orders and immediately alert UPD. If the officer does not declare that exigent circumstances exist, ask the officer for their name, identification number and agency affiliation and record that information; inform the officer that you are not obstructing their process, but the designated campus official must review the documentation presented. If the designated individual cannot be reached, you may also contact **University Counsel** and/or UPD for assistance.***

#### **8. What should I do if I receive a notice to inspect I-9 Employment Eligibility Verification Forms or other employment records from a federal immigration agency?**

Within 72-hours of receiving a notice to inspect I-9 Employment Eligibility Verification forms or other employment records from an immigration agency, the CSU must notify each affected employee and the employee's authorized representative, if any.<sup>9</sup> Notice is not required if prohibited by federal law. A template notification is posted [here](#).<sup>10</sup>

#### **9. 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], California

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<sup>9</sup> See California Labor Code § 90.2.

<sup>10</sup> As required by California Labor Code § 90.2, the California Labor Commissioner posts a template Notice to Employee at [https://www.dir.ca.gov/DLSE/LC\\_90.2\\_EE\\_Notice.pdf](https://www.dir.ca.gov/DLSE/LC_90.2_EE_Notice.pdf).

Education Code section 66093.3, and CSU policy<sup>11</sup>). 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 ***respectfully inform the officer that you are not authorized to provide access to the specified records or information, and must contact the university designated official point of contact to verify the immigration enforcement documents and then immediately contact that individual. Ask the officer for their name, identification number and agency affiliation and record that information; inform the officer that you are not obstructing their process but the designated campus official must review the documentation presented. If the designated individual cannot be reached, you may also contact University Counsel and/or UPD for assistance.***

#### **10. 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 these 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 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.**

#### **11. Does the Systemwide Time, Place, and Manner (TPM) Policy require CSU to gather information about immigration status?**

No. Despite baseless rumors on social media, there is no connection between the TPM policy and immigration enforcement actions taken by federal or other agencies external to the CSU. CSU

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<sup>11</sup> See CSU Information Security Privacy of Personal Information Policy at <https://calstate.policystat.com/policy/15032498/latest>; see also, CSU Mandatory Catalog at Section XV Privacy Rights of Students In Education Records: <https://calstate.policystat.com/policy/15274496/latest>.

will not contact, detain, question or arrest an individual on the basis of any Protected Status as defined in the Nondiscrimination Policy, suspected immigration status nor to discover the Protected Status or immigration status of any individual. The TPM policy will not be used for any purpose connected with immigration status or enforcement.

### **12. What if I am uncomfortable approaching UPD?**

Every university has a designated staff person who will serve as a point of contact for any student, faculty or staff member who may or could be subject to an immigration order or inquiry on campus who will maintain personal privacy to the extent permissible by law.<sup>12</sup>

UPD officers are a valuable and important resource to members of our university community. 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 can 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.

### **13. Can CSU bar federal immigration enforcement officers from attending University Career Fairs?**

No. The campus cannot bar ICE, CPB or DHS from participating in career fair activities. However, campuses can and should alert Dream Center coordinators to the dates and times when ICE, CPB and/or DHS will be on campus. The campus also should coordinate with representatives from ICE, CPB and DHS and take steps to prevent unnecessary alarm on campus, such as planning the paths of travel and discussing attire.

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<sup>12</sup> See California Education Code § 66093.3(f).