

PRESIDENTS' ALLIANCE | ON HIGHER EDUCATION AND IMMIGRATION

FAQs on ICE RAIDS AND SITE VISITS

With the rescission of DACA on September 5, 2017 and the failure to pass any legislative solution since then to provide DACA recipients and other undocumented students with a pathway to residency or citizenship in the United States, it has been important for colleges and universities to reaffirm their full commitment to enroll, educate, and support Dreamer students.

The purpose of these FAQs is to address some questions that have arisen regarding the obligations of institutions in the case of ICE raids or site visits, and how campuses can protect members of the campus community. For more information on ICE, campus safety, and immigrant rights, along with links to an array of resources for students, families, and institutions, see the *Informed Immigrant* [website](#).

What is the responsibility of college officials with regard to ICE raids or USCIS site visits?

Immigration officers such as Immigration and Customs Enforcement (ICE) or Citizenship and Immigration Services (USCIS) or others may arrive unannounced to inspect I-9 records, conduct an administrative site visit for a compliance review, request certain documents with a subpoena, or apprehend individuals. Unannounced visits by law enforcement are stressful and employees or occupants generally feel pressure to do whatever law enforcement officers ask of them in the moment.

It's important for individuals who greet visitors to know that they are not necessarily required to do whatever immigration officers request. The tension is alleviated when staff understands in advance that they don't need to give consent and may not even have the authority to give consent. In many cases all they need to do is collect some information from the law enforcement officers and then contact the appropriate person who is authorized to represent the institution in law enforcement situations.

Typically immigration officers are acting on civil, not criminal, authority. The warrants and subpoenas these officers use to request documents, information and access to a workplace or private property, or to apprehend individuals, generally are administrative warrants signed by someone at their own agency (not judicial warrants signed by a judge).

Administrative warrants do not authorize officers to enter nonpublic areas of the workplace or property, without proper consent of the company or property owner.

Institutional staff are not required to give consent, provide documents, or help federal immigration officers access nonpublic areas of the workplace, property, or campus. In fact, most employees don't have the authority to give consent on behalf of the institution.

But once consent is given and the officers enter non-public areas of the premises, even if the person didn't have authority to consent, it can be hard to unwind the damage done.

NOTE ABOUT CALIFORNIA LAW, FOR CALIFORNIA INSTITUTIONS ONLY: *California passed a state law prohibiting giving consent for law enforcement officers to enter nonpublic areas for immigration*

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enforcement unless the officers present a judicial warrant (signed by a judge). California law also prohibits release of documents or records to immigration officers unless the officers present a judicial warrant, except for I-9 Notices of Inspection. California institutions need to be familiar with this law and have a protocol for compliance with state law during any ICE visit

NOTE ABOUT TEXAS LAW: For information regarding Texas SB4 and its current status, please see the *Informed Immigrant [website](#)*; for information regarding the applicability of SB4 to campus police, the University of Houston has provided a set of [FAQS](#) on their website.

What is the Institution's responsibility with regard to ICE making an unannounced site visit with regard to sponsored foreign nationals (including students and scholars in F-1 or J-1 status)?

ICE officers conduct unannounced site visits to confirm that sponsored foreign nationals are employed as described in the institution's approved immigration application, and these site visits do not require a warrant or subpoena. Federal immigration officers generally have no greater access to personnel records than any member of the public unless they have a valid subpoena or I-9 Notice of Inspection.

An important exception is immigration records (not the full personnel file) for foreign nationals sponsored by the institution. F-1 and J-1 sponsoring institutions are required to maintain certain information mandated by law for F-1 and J-1 students and scholars and present this information to immigration officers upon request. This is an exception to FERPA only for students in F-1 and J-1 status and only for the specific information required by law.

Responding to I-9 Notices of Inspection.

If the purpose of the visit is to inspect I-9 records, the employer doesn't have to consent to a same-day inspection. Immigration officers tend to arrive at the workplace and request to inspect the I-9s immediately.

But the law provides employers three days to respond to an I-9 Notice of Inspection. Employers should always request the three days to respond, to have the opportunity to organize I-9 records and respond in an orderly manner without inadvertently allowing law enforcement officers to review personnel records or other information outside the authorized scope of an I-9 inspection.

It's best to send the I-9 Notice of Inspection to counsel for review immediately and to discuss next steps with counsel. Employers may face significant fines for I-9 violations even if they are technical violations on I-9s for U.S. workers.

Responding to Unannounced ICE Visits

Federal law prohibits hiding evidence, concealing individuals who are the targets of law enforcement, or interfering with an arrest. Also it's important for employees to avoid putting themselves in physical danger during any immigration enforcement action at the workplace.

Immigration officers sometimes may exercise criminal enforcement powers or may work with criminal law enforcement officers who may present a criminal arrest or search warrant that gives greater authority to enter areas of the workplace that are not open to the public, without consent.

Identifying “public” and “nonpublic” areas of campus is an important exercise in planning for ICE visits. Institutions with open campuses will need to have a different protocol than closed campuses with restricted access points where ICE officers will have to request access.

A typical protocol involves routing law enforcement officers to the campus safety office. But immigration enforcement is entirely different from criminal enforcement and a different protocol is required. When law enforcement comes to campus seeking a student in connection with a criminal matter, the student will have the opportunity to defend herself in a proceeding and may not even be charged with a crime at all. In immigration enforcement, an individual may have no defense against deportation or may be subject to an order of deportation already. So Immigration custody may be the end of the line and a fast track to deportation, not the beginning of a process to determine whether the student is subject to deportation.

If ICE presents an order of deportation against the student, not a court order or judicial warrant compelling the institution to act in the matter, the institution is not required by law to help ICE apprehend the student.

What are the rights of individuals who may be targets of immigration enforcement actions?

Individuals who are targets of immigration enforcement actions have civil rights under U.S. law regardless of their citizenship or immigration status. For example, individuals are not required to allow law enforcement to enter their residence or nonpublic areas of a property or campus unless the officers have a judicial warrant (signed by a judge).

The American Civil Liberties Union (ACLU) has prepared one-page “[Know Your Rights](#)” flyers and offers red cards that individuals can slide under a door to assert their civil rights without opening the door and thus giving consent to immigration officers to enter. Additional information and resource links for both students and educators can be found on the *Informed Immigrant* [website](#).