

NOCCCD's Protocol for Immigration Related Requests

The District's protocol, outlined below, is applicable to any request for information or access to students or to student records from 1) U.S. immigration officials and, 2) any governmental or private person or entity when the request involves an immigration related matter.

NOCCCD employees shall not release to U.S. Immigration Officers or to any person, any personally identifiable student information related to immigration status, or provide access to documents or information about NOCCCD students without a judicial warrant, subpoena or court order, unless authorized by the student or required by law.

Protocol

1. In the unlikely event that Immigration and Customs Enforcement (ICE) or other person or governmental entity pursue immigration-related investigations on our campuses, staff shall direct them to the Campus Safety Office. Staff should explain to the requesting person that this is our District protocol. Staff in all instances shall inform the Campus Safety Office and the Office of the President/Provost of the presence of ICE or other persons pursuing immigration related investigations on our campuses. The Campus Safety Office, in conjunction with the President's/Provost's Office, will review any such request for information and provide a response in conformance with this protocol.
2. If a warrant, subpoena, or court order is presented, Campus Safety or the President's/Provost's Office should also notify the Vice Chancellor of Human Resources. If the warrant is clearly an administrative warrant (not a judicial search warrant) it is not enforceable for purposes of entering private areas or accessing documents or information about NOCCCD students. In such instances, where the warrant or subpoena is clearly not enforceable, Campus Safety or the President's/Provost's Office shall deny the access or information requested.
3. In any instance where the validity of a warrant or subpoena is unclear, or where the parameters of the warrant or subpoena are unclear, it is necessary to first obtain legal advice from our District's Counsel. In such instances the President's/Provost's Office shall also notify the Vice Chancellor for Human Resources. This step is critical before granting access or information, to ensure we do not violate student privacy rights.
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 officers come onto campus uninvited, staff should contact Campus Safety and the President's/Provost'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, and inquire into their reason for being on campus. Campus Safety or an administrator should accompany ICE or other immigration officers until they leave the campus.

NOCCCD PROTOCOL TIPS

Enforceability of Warrants

1. Only *search* warrants issued by a Judge or Magistrate (judicial warrants) are enforceable. Administrative *search* warrants issued by U.S. Department of Homeland Security or other Immigration officials are not enforceable.¹ A judicial warrant will state the name of the court, and the signature line will indicate it is signed by a judge. NOCCCD will NOT comply with an administrative warrant seeking entry to private areas or access to documents or information about NOCCCD students.
2. ICE agents and other law enforcement officers (LEO's) are not allowed to enter a private area of any NOCCCD campus without a judicial *search* warrant. Be clear what areas of the campus are considered private. When possible mark or put up signage indicating which areas are considered private. If an ICE agent or other LEO's attempt to enter a private area without a judicial *search* warrant, tell them, "I am not authorized to give you permission to enter. Please wait and I will contact Campus Safety."
3. Judicial *search warrants* will describe the parameters of what may be searched. Officers 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 the warrant says they may search all classrooms in the 200 building, they do not have authority to search offices in the 200 building.
4. Although administrative *search* warrants are not enforceable, administrative *arrest* warrants do allow ICE agents to arrest a person who is reasonably suspected of being undocumented. A judicial or administrative *arrest* warrant, however, does not give ICE or other LEO's the right to enter private areas to make 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* to be able to enter a private area to make an arrest.

General Tips

1. Being in a public area does NOT give ICE the authority to stop, question, or arrest just anyone. Individuals also have the right to remain silent.
2. Do NOT volunteer documentation or information to ICE agents. If ICE agents have questions or requests, ask if they have a warrant or subpoena and then say, "Please wait a moment while I contact someone who can help you." Then contact campus safety and/or the president's/provost's office. Identify a space for them to wait and stay with them.
3. If you refuse ICE agents entry into a private area, and they enter anyway, you should continue to refuse consent and document their actions, but do not obstruct their entry.

¹ Immigration administrative warrants usually say "Department of Homeland Security" and are on Forms I-200 or I-205.

Sample Judicial 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 ATTACHMENT 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


Judge's signature

City and state: SACRAMENTO, CALIFORNIA

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

Sample Administrative Warrant

U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. [REDACTED]

Event No: PO01606000346

FINS #: 1150253900

Date: September 1, 2016

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] (Port)

[REDACTED] (Date) 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]
(Signature of Designated Immigration Officer)

JOHN KOHLMAN

(Print name 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]
ANDREW JOHNSON
(Signature of officer serving warrant)

Deportation Officer

(Title of officer serving warrant)

Form I-260 (Rev. 08-01-07)