

# GUIDANCE MEMORANDUM

## GUIDANCE FOR COLLEGES AND UNIVERSITIES ON RESPONDING TO IMMIGRATION ENFORCEMENT REQUESTS



FEBRUARY 2025

# Attorney General of the State of Maryland Guidance to Colleges and Universities Regarding Immigration Enforcement

The Office of the Attorney General offers this guidance to higher education institutions in Maryland to help them prepare for the possibility of federal immigration enforcement activities on their campuses. The following is general guidance. Colleges and universities should consult legal counsel for advice on handling specific requests from federal immigration officials.

***Immigration enforcement activities could take place on college and university campuses.***

The Immigration and Customs Enforcement (ICE) unit of the U.S. Department of Homeland Security (DHS) enforces federal immigration laws.<sup>1</sup> Enforcement actions may include arrest and detention of individuals, searches, service of subpoenas and other legal documents, interviews, and surveillance.

Historically, DHS has limited enforcement at or near places considered “sensitive locations” or “protected areas” (such as schools, colleges and universities, medical facilities, places of worship, etc.) to actions involving a national security threat, risk of violence, or other exigent circumstances.<sup>2</sup> But on January 20, 2025, DHS rescinded the guidance limiting enforcement actions at or near these areas. Therefore, ICE will no longer be subject to these limitations, and institutions should be prepared for the possibility of increased immigration enforcement activities on their campuses.<sup>3</sup>

***Higher education institutions may not interfere with enforcement activities, but they are not required to assist with them.***

Colleges and universities may not conceal individuals who are sought by immigration officials for law enforcement purposes or interfere with arrests,<sup>4</sup> but they are not required to

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<sup>1</sup> Officials from federal agencies other than ICE might also conduct enforcement activities on campuses. This guidance applies to other agencies’ enforcement activities as well.

<sup>2</sup> See October 27, 2021, Memorandum from Alejandro Mayorkas, Secretary, Homeland Security, *Guidelines for Enforcement Actions in or Near Protected Areas*; October 24, 2011, Memorandum from John Morton, Director, ICE, *Enforcement Actions at or Focused on Sensitive Locations*.

<sup>3</sup> See <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>.

<sup>4</sup> See 8 U.S.C. § 1324.

assist federal agents in apprehending individuals. Immigration officers have authority to arrest and detain individuals who are subject to removal upon issuance of an administrative warrant.<sup>5</sup> The administrative warrant is not a judicial warrant and does not permit the immigration officer to enter a campus area that is not open to the general public.<sup>6</sup> ICE officials may enter and engage in enforcement activities in areas of campus that are open to the general public, but they may not enter areas of campus that are not open to the general public without a judicial warrant or without being given consent to enter the area.<sup>7</sup>

In addition to authority to arrest or detain individuals who are subject to removal, ICE also has administrative subpoena power and can issue a subpoena requiring production of records in connection with criminal or civil investigations.<sup>8</sup>

***Student information is protected by FERPA.***

Educational institutions are required to comply with the Family Educational Rights and Privacy Act.<sup>9</sup> FERPA provides that institutions may not release student education records without student consent, unless the requestor has produced a court order or lawfully issued subpoena, or another FERPA exception applies. The institution must make a reasonable effort to notify the student (or parent, if the student is a minor) before producing documents in response to a subpoena unless the subpoena has been issued for law enforcement purposes, and it prohibits such notification.<sup>10</sup>

***Public institutions must comply with the Public Information Act.***

Public colleges and universities should be aware that the Maryland Public Information Act (MPIA) requires State and local officials to deny requests by federal agencies to inspect a part of a public record containing personal information or to inspect photographs where access is

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<sup>5</sup> 8 U.S.C. § 1226(a).

<sup>6</sup> Administrative warrants and subpoenas are issued by administrative agencies. Judicial warrants and subpoenas are issued by state or federal courts.

<sup>7</sup> See 8 C.F.R. § 287.8(f); *See v. City of Seattle*, 387 U.S. 541, 544 (1967) (holding that the Fourth Amendment generally requires an administrative official to obtain a judicial warrant before searching portions of premises that are not open to the general public).

<sup>8</sup> 8 C.F.R. § 287.4.

<sup>9</sup> 20 U.S.C. § 1232g, 34 C.F.R. Part 99.

<sup>10</sup> 34 C.F.R. § 99.36(a).

sought for the purpose of enforcing federal immigration law, unless the federal agency presents a valid judicial warrant.<sup>11</sup>

The MPIA provision doesn't encompass information about citizenship or immigration status, so it doesn't prohibit officials from providing information to federal agents about citizenship or immigration status of individuals who are already known to federal immigration officials. Federal law prohibits state or local government entities from prohibiting or restricting "any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual."<sup>12</sup> Therefore, public colleges and universities should not prohibit their employees from sharing information about an individual's immigration status with federal immigration officials. But before disclosing a person's name, address, or other personal information with federal immigration authorities, State and local officials should consult with legal counsel. With respect to student records, FERPA requirements would apply, unless a FERPA exception is applicable.

***Institutions may provide information to students, faculty and staff about resources for individuals.***

Higher education institutions may provide information to students, faculty, and staff about resources for obtaining information about their rights during contact with immigration authorities. The American Immigration Lawyers Association and the National Immigration Advocates Network maintain lists of legal services providers.<sup>13</sup>

***Individuals may decline to answer questions asked by immigration officials.***

Individuals who are the focus of federal immigration officials' enforcement activities have the right to decline to provide personal information or consent to a search until they have had an opportunity to speak with legal counsel.

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<sup>11</sup> See Md. Code Ann., Gen. Prov. § 4-320.1(b).

<sup>12</sup> 8 U.S.C. § 1373.

<sup>13</sup> For information on finding immigration legal assistance see [http://www.marylandattorneygeneral.gov/Pages/CPD/immFraud/immFraud\\_assist.aspx](http://www.marylandattorneygeneral.gov/Pages/CPD/immFraud/immFraud_assist.aspx).

### ***Institutions should establish protocols for handling ICE Visits.***

Higher education institutions should prepare employees for handling requests by immigration enforcement officials. Such preparations should include providing employees with contact information for campus police and legal counsel whom they can consult for instructions on responding to requests from federal officials. Institutions should ensure that employees understand which campus spaces are open to the public and which spaces are restricted areas. Employees should also be informed as to protocols for handling requests from immigration enforcement officials. For example, such protocols could provide:

- If immigration officials arrive at a campus location with an arrest warrant:
  - Staff should ask for their credentials and ask them to wait in an area open to the public while legal counsel for the institution are contacted.
- If immigration officials ask an employee for access to an area of campus not generally open to the public, such as a residence hall, laboratory, faculty or staff office, or other limited-access space, the employee should ask the official to wait while legal counsel for the institution are consulted.
- If an employee is handed a warrant or subpoena by an immigration officer seeking records regarding an individual, the employee should ask the officer to wait while the employee contacts legal counsel for instructions on responding to the request.
- Employees should not simply refuse to provide information or access to immigration officials; they should advise the official that they need to obtain instructions from legal counsel for responding to the official's request before they can provide any information or allow access to a non-public area.<sup>14</sup>

### ***Summary***

Higher education institutions may not interfere with enforcement activities of immigration officials, but they are not required to assist with such activities. FERPA prohibits institutions from releasing student records without consent, unless the requestor has produced a court order or lawfully issued subpoena, or another FERPA exception applies. Maryland law prohibits State and local government employees from providing federal agencies with access to personal information or photographs for enforcement purposes without a subpoena signed by a federal or State judge. Colleges and universities should establish protocols for employees to follow in the event they receive requests from immigration enforcement officials. Employees

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<sup>14</sup> There may be rare cases in which emergency action is necessary, and a federal agent orders an employee to grant them access to an area of campus not open to the general public. In those cases, or where an immigration official presents a judicial warrant and orders an employee to grant access to a restricted area, the employee should ask to consult with counsel before granting access but, if that request is refused, the employee should comply with the official's order, while making clear that they are not consenting to the request.

who are contacted by immigration officials should reach out to legal counsel for guidance before taking any action in response to their requests.