

Guidance to UM Faculty, Staff and Community on Federal Immigration Enforcement Activity on Campus

Purpose

This policy is designed to provide clear guidance on the appropriate actions to take if U.S. Immigration and Customs Enforcement (ICE) visits or attempts to access limited access areas on campus. These areas may include administrative offices, academic departments, research facilities, and student housing, among others. This guidance applies to all faculty, staff, students, and visitors at the University of Michigan who may be involved in or witness an ICE visit to campus.

1. What is ICE? U.S. Immigration and Customs Enforcement or “ICE” is the main government agency within the U.S. Department of Homeland Security responsible for removing from the country individuals who lack legal immigration status. ICE contains more than 20,000 law enforcement and support personnel in more than 400 offices in the United States and around the world. The agency also has an annual budget of approximately \$8 billion.

2. Can ICE conduct enforcement actions on UM’s Campus and Property? As a public university, UM is largely open to the general public. ICE, and other federal immigration enforcement officers may enter areas open to the general public without a warrant. However, public access is limited in certain areas of UM’s campuses and property. Included in this category of limited access spaces are campus buildings in which access is restricted by university-issued ID card, locked doors or monitored entryways, including the university residence halls. Also included within this category of limited access spaces are certain parts of buildings that, although ordinarily unlocked during normal operations, involve particularized concerns for privacy, safety, and operational needs; these spaces include administrative or faculty offices, classrooms, and laboratories.

UM’s educational mission requires a safe and secure learning environment for its students. Accordingly, UM has designated its classroom buildings as restricted areas with limited access. ICE must therefore present a valid judicial warrant for entrance to a classroom building, absent explicit permission from university leadership. ICE agents must have a judicial warrant or subpoena to enter most private or limited access areas on campus. If ICE agents do not present a warrant or have clear legal authority, they cannot access restricted spaces without explicit permission.

The appropriate response to federal immigration enforcement officials is:

A. Notify Authorities:

Upon encountering ICE agents, immediately contact UMPD or Michigan Medicine security to inform them of the situation. Provide a clear description of the agents' presence and actions.

B. Document the Situation:

If it is safe to do so, document the date, time, and details of the interaction. If possible, record video or audio of the exchange while maintaining discretion and ensuring your safety.

C. Do Not Interfere with Law Enforcement:

While you have the right to document and report the incident, do not physically obstruct or interfere with ICE agents as they conduct their business.

** ICE or federal officials from the Department of Homeland Security may be on campus for reasons unrelated to enforcement actions. Due to our International Programs, UM is required to report certain information about F-1 or J-1 visa students to ICE. This reporting is routine, and UM is required to comply with on-site visits to review records when requested. Nevertheless, UM personnel, vendors and partners should respond to ICE's presence as noted above.*

3. Does UM have an affirmative obligation to assist ICE? It is UM's position that it will not take affirmative steps to advance enforcement of federal immigration law. At the same time, a UM community member could be subject to criminal prosecution if they attempted to interfere, physically or otherwise, with the actions of a federal officer.

Federal law prohibits hiding evidence, concealing individuals who are the targets of law enforcement, or interfering with an arrest. Federal law also prevents a federal, state, or local government from prohibiting or restricting "any government entity or official from sending to, or receiving from, [federal immigration enforcement agencies] information regarding the citizenship or immigration status, lawful or unlawful, of any individual." Also, it is important for all UM community members to avoid putting themselves in physical danger during any immigration enforcement action on campus.

4. In what situations can federal immigration enforcement officers enter limited access, nonpublic areas, including residence halls? Federal immigration enforcement officers are required to have a criminal judicial arrest or search warrant to lawfully enter limited access nonpublic areas without consent. Most often, immigration officers who might come to campus would be acting on civil, not criminal, authority, and generally carry administrative warrants (or "ICE warrants"). Administrative warrants are not signed by a judge and do not authorize officers to enter limited access areas without consent.

5. What Type of Warrant Requires Compliance? This is a determination that should be made by Michigan Medicine Security, UMPD and/or OGC. An "ICE warrant" is a form issued by certain immigration officers that names an allegedly deportable non-citizen and

directs various federal immigration enforcement agents to arrest that individual. ICE warrants are issued for suspected civil violations of immigration law, not probable cause of a criminal offense. They are also sometimes called “administrative warrants.” An “ICE warrant” is not a judicial warrant. It is not reviewed by a judge, or any party outside the Executive branch, to determine if it is supported by a showing of probable cause.

An ICE warrant directs various federal immigration enforcement agents to arrest the person named in the warrant. Because it is not a warrant within the meaning of the Fourth Amendment to the U.S. Constitution, an ICE warrant does not give the immigration enforcement officer the authority to demand entry to a home, private space or limited access space. Nor do ICE warrants provide a basis for a local or state law enforcement officer or agency to arrest or detain anyone.

An ICE warrant is different from an ICE detainer. An ICE warrant is directed only at authorized DHS officials, while an ICE detainer is a request directed to other law enforcement agencies. Both an ICE detainer and an ICE warrant are issued based on alleged civil immigration violations and do not require probable cause of a crime. Neither document meets Fourth Amendment requirements for arrest or provides authority for law enforcement to arrest or detain someone—or search non-public spaces.

6. What to do if presented with an ICE Immigration Detainer. Immigration detainer requests are requests from federal immigration enforcement to local law enforcement (such as UMDPSS) to (1) share information regarding when and where an individual suspected of being removable from the country will be released from custody, to facilitate federal immigration enforcement officers detaining that individual upon release, and (2) hold the individual for up to 48 hours past the time they normally would have been released so immigration officers have a greater amount of time to detain that individual. While often framed as mandatory, compliance with immigration detainers is not mandatory, and proper University authorities should be consulted immediately.

7. What to do if federal officer/agent(s) insist on carrying out enforcement actions prior to contact being made with the appropriate UM authority. UM personnel should not interfere with their actions. Instead, UM personnel should observe their conduct and take detailed notes of what transpires, if they are able. It remains possible for officers to claim “exigent circumstances” authorizing their access to our facilities or people without a warrant. In such a situation, we should comply with their commands, knowing that their justification can be challenged later, if necessary.

8. Can a student refuse to allow a federal immigration enforcement officer to enter a residence hall room? Yes. In this situation, a student should immediately contact housing security/UM DPSS. A residence hall room is considered a limited access area and cannot be legally accessed by immigration enforcement officers without a valid criminal warrant or the voluntary consent of the occupant. A student need not allow entry to any law enforcement officer who is not in possession of a valid criminal warrant, regardless of what that officer might say.

9. In the absence of a valid judicial warrant, may UM staff refuse to allow a federal immigration enforcement officer entry to patient care areas of the Hospital or other healthcare facilities? Yes. Again, the most important step for any UM community member is to politely advise the officer(s) in question that they have been instructed to notify Michigan Medicine Security/UM DPSS and that they will need to wait for security to engage. UM may limit access to private areas to people who are receiving or providing care, or who are otherwise necessary for the provision of care, such as a parent accompanying a child who is receiving care. To the extent possible, access to private areas intended for patients and their family members should be restricted to essential medical personnel (e.g., doctors and nurses), excluding all other staff and visitors during business hours.

10. Does FERPA protect DACA and undocumented students? Yes. The Personal Identifiable Information (PII) of undocumented or DACA students are protected by the Family Educational Rights and Privacy Act (FERPA). FERPA effectively prohibits schools from releasing educational records or most personally identifiable information without consent unless presented with a subpoena issued for a law enforcement purpose. FERPA training for campus staff, faculty, and students may include this information, and campuses should ensure that all staff, faculty, and students are provided information on campus protocols regarding ICE officers coming onto campus.

11. Accepting Service of Process. UM students, faculty and staff should not accept service of any subpoena/warrant by immigration officials before contacting OGC. A UM community member approached by an immigration enforcement agent should state they are not authorized to accept service on behalf of the UM or any particular department, office, or person, and refer the officers to OGC. OGC will then assist in determining the validity of the request and whether it is lawful and enforceable.