

Policy on Managing Receipt of Official Documents and Contacts from Government Authorities or Attorneys

Effective: **March 1, 2017**

Oversight: **Chief of Staff and Counsel**
 Vice President for Finance and Administration

I. Introduction

From time to time, college personnel, including student workers, receive official legal documents notifying the college of a lawsuit or agency proceeding, requiring that the college produce copies of records related to court or agency proceedings, or requiring the college to take other action. These documents may take various forms, including summonses, subpoenas, search warrants, other court orders, and visits from official personnel (federal, state, or local).

This document establishes a protocol for receiving official legal documents, visits, background checks, and other contacts from government authorities and attorneys. This policy applies to all faculty, staff, student employees, and volunteers of Hampshire college.

By following this protocol, personnel will facilitate prompt review of the situation by legal counsel, who will assist in determining whether the contact is authorized and legally permissible, and the appropriate response on behalf of the college.

Joanna Olin, Chief of Staff and Counsel, may be contacted at extension 5521, President's Office, Cole Science Room 116. In the event she is unavailable and consultation is urgent, contact Mary McEneaney, Vice President for Finance and Administration, at extension 5528.

II. Protocol

A. Who is delivering the document or seeking information?

Ask for photo identification and check it carefully. Be polite and professional.

B. Determine what is it?

Summons
Search Warrant
Subpoena
Court Order
Other Notice from a Governmental Agency

C. Should I accept it?

Do not accept it unless it is addressed to you or to the office or department in which you are employed. Do not accept such a document addressed to another individual or department on campus.

If you do not have specific authority to accept service of such a document addressed to another individual or department, tell the process server “I do not have the authority to accept it,” and refer the process server to college counsel. Notify college counsel immediately following any such contact.

D. If you accept it:

Stamp it with a “received” stamp or make a note of the date and time received, as well as the method of delivery (e.g. by hand, by campus mail, by U.S. mail, etc.)

Make a photocopy of the document and get it to college counsel on the same day. With the exception of a search warrant, you should not take any action on other official documents until legal counsel has determined its validity and appropriate action.

Do not interfere with a search warrant delivered and addressed to your office, one of your coworkers, or to you personally. Call college counsel or Campus Police immediately. Keep a list and copy of all records provided or examined pursuant to the warrant.

Do not talk about the document, or the fact that it was received, with anyone other than your supervisor, legal counsel, Campus Police, or others with a legitimate need to know. Talking about certain things with the wrong people may be illegal.

For background checks that involve requests for student records (not including customary employee-related issues such as reference checks or wage verifications), verify the requestor’s photo identification and ask to see a copy of the student’s signed release. Do not give copies of the documents to the requestor unless the release specifically authorizes the requestor to receive copies. Consult with college counsel if they do not present a release or you are unsure of what to do. If the requestor contacts you via phone, ask him/her to fax or email a copy of the signed release, and take reasonable steps to verify the caller’s identity.

Supervisors should discuss with their staff members how to implement this policy in individual offices. In any case, if you are contacted by a government official or attorney involving college business and you are unsure of what to do, immediately tell your supervisor. If s/he isn’t available, refer the caller/visitor to college counsel.

Supplement

What to do if Immigration and Customs Enforcement (ICE) contacts you.

A. Why Does ICE Make Inquiries?

The reasons for inquiries vary widely. Sometimes a student or an employer for whom the student works is under investigation for immigration law violations or criminal activity (that the officer will not disclose to you). Other inquiries are follow-ups on reinstatement applications or SEVIS record terminations. (SEVIS is discussed further in section F below). ICE usually makes its inquiries by fax, phone, or in-person visits.

Many ICE inquiries and subsequent arrests seem to follow SEVIS record terminations. It is therefore important to educate students about how to maintain immigration status and follow campus policies.

Employees should also avail themselves of immigration resources and, in some cases, personal legal counsel, to understand how to maintain their immigration status. If individuals are detained by ICE officials, they need to know how to react. The American Civil Liberties Union (ACLU) publishes a useful resource for nonimmigrants titled Know Your Rights, see <https://www.aclu.org/know-your-rights/what-do-if-immigration-agents-ice-are-your-door>

ICE officials usually get information about college and university students directly from Designated School Officials (DSOs). DSOs are dedicated resources to students visiting on F and M visas who keep their records updated in SEVIS. Dre Domingue, Director of Multicultural and International Student Services, is the college's Primary DSO. Christina Rizleris (C Riz), Associate Director of Admissions and Coordinator of International Recruitment, and Katie Irwin, Director of Global Education, are also DSOs. However, these offices are not always ICE's first point of contact, particularly in the case of employees who are not registered in SEVIS, so we have developed these recommendations for how to handle and refer any inquiries you may receive, in the unlikely event ICE official contact our campus.

B. If you receive a phone call from ICE.

If you receive a phone call, be sure to make a written record of the phone conversation. Ask the agent to fax a written inquiry on ICE letterhead. Carefully keep track of when and how ICE contacts you, whether or not the individual in question is in custody, what ICE is asking for, and any other details.

Inform the officer that we have protocols in place to make sure ICE inquiries are addressed, and assure him/her that the request will be addressed in a timely manner. Let the officer know we will get back to him or her soon.

After you have done this, call college counsel to advise you on next steps.

C. If you receive an in person visit from ICE.

Ask to see photo identification. They may ask questions or present a subpoena. Inform the officers that you have protocols in place to make sure ICE inquiries are addressed, and assure him/her that the request will be addressed in a timely manner. Politely ask them to wait while you consult with college counsel on next steps.

D. If you receive a Letter from ICE, the FBI, or the FISA Court.

If you receive a letter from ICE, the Federal Bureau of Investigation (FBI), or the Foreign Intelligence Surveillance Act (FISA) Court in the mail, do not respond immediately, and do not notify anyone other than your supervisor. Notify college counsel to advise on next steps.

E. Am I allowed to inform the individual who is the subject of the inquiry?

No. It could be construed that in informing the individual of the inquiry, you are aiding in the potential flight of an individual or obstructing justice. You may want to ask this question to the ICE official who contacts you, note the response, then consult with legal counsel.

F. What is SEVIS?

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required the creation of a program to collect information relating to nonimmigrant foreign students and exchange visitor program participants during the course of their stay in the United States. The program became known as SEVP (Student and Exchange Visitor Program) and its core technology became known as SEVIS (Student and Exchange Visitor Information System).

SEVIS is a nationwide, Internet-based system that the U.S. government uses to maintain accurate and current information on non-immigrant students (F and M visa), exchange visitors (J visa), and their dependents (F-2, M-2, and J-2).

G. Is FERPA involved?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records, however, a lawfully issued subpoena or judicial order ordering disclosure of student records overrides FERPA. Moreover, for international students and scholars in F, M, or J status, the Patriot Act provides that the U.S. Department of Homeland Security (DHS) may obtain from the school any information needed to carry out its SEVP. DHS requires these students to sign Form I-20 as a condition of entry, in which students authorize their schools “to release any and all information from my records which is needed by [DHS] pursuant to 8 CFR 214.3(g) to determine non-immigrant status.”