

IMMIGRATION AND CUSTOMS ENFORCEMENT INTERACTIONS
FREQUENTLY ASKED QUESTIONS

Q. Who is ICE and what are they allowed to do?

A. U.S. law grants federal immigration authorities the power to arrest and detain people who are trying to enter the U.S. or are suspected of being in the U.S. illegally. Immigration and Customs Enforcement (ICE) are part of the Department of Homeland Security. They are charged with arresting and detaining people who are trying to enter the U.S. or are suspected of being in the U.S. illegally. ICE may arrest non-citizens for alleged immigration violations. Federal law grants arrest authority **without a warrant** to Immigration officials if they have "reason to believe that the alien ... is in the United States in violation of any [immigration] law or regulation and is likely to escape before a warrant can be obtained for his arrest."

Q. What is EMU's position on checking citizenship status, and on whether it will allow ICE on campus?

A. The university maintains no listing of students or employees whose immigration documentation may be incomplete. Further, EMU's Department of Public Safety (DPS) never considers the immigration status of the students and employees it deals with on a day-to-day basis. We do not ask for citizenship proof when we speak with crime victims or investigate any traffic violations.

At this point, we have no reason to believe that ICE will conduct a "raid" on our campus, looking for people who are in the United States without proper documentation. If ICE were to arrive on campus, we expect that they will contact DPS and work in concert with DPS in locating a person they wish to speak with. DPS will always ask to see a properly executed warrant before providing any information. DPS also will not divulge documents – including class schedules or other student education-related documents – that are protected by the Federal Education Rights Privacy Act (FERPA). If ICE provides DPS with a properly executed warrant for a certain person at a certain location, DPS will comply with federal law and will accompany ICE to the location listed on the warrant.

Q. If ICE comes to my classroom, must I allow them to speak with a student?

A. If ICE has a properly executed warrant listing the correct location of the class and the name of the student, we must allow ICE to approach the student. But the student need not answer any questions without having an attorney present. (See below.) It is unlikely that ICE will arrive at a classroom without a warrant, because they likely will have shown it to DPS before coming to the classroom. But if ICE has no warrant upon arrival, you may ask ICE to wait until DPS can be called. Then, you should call DPS on its emergency number and await its arrival.

Q. Must an EMU student or employee talk with ICE when approached?

A. No. Anyone detained by ICE can request that an attorney be present or choose to remain silent. Detained people also may not be forced to provide a fingerprint scan. Do not, however, attempt to flee. Attempting to run away from the interview could give ICE independent grounds to detain you without a warrant.

Q. Must ICE have a warrant to arrest someone?

A. Not necessarily. Some sources advise that a detained person should simply ask to leave, noting that ICE cannot detain anyone without a warrant unless they suspect a crime has taken place. ICE, though, would respond that a person's suspected undocumented presence in the United States *is* a crime falling within their authority. Nonetheless, it never hurts to ask to see a warrant.

Here are the details:

If ICE has “reason to believe that an alien ... is in the United States in violation of any [immigration] law or regulation and is likely to escape before a warrant can be obtained for his arrest,” ICE can detain a person without a warrant for 48 hours, or longer “in the event of emergency or other extraordinary circumstance.” By the end of this time, ICE must determine whether they will keep the individual detained.

But if, when a person is approached by ICE, there is no “reason to believe that the alien ... is in the United States in violation of any [immigration] law or regulation [or] is likely to escape before a warrant can be obtained for his arrest,” then a warrant *is* required, and you may see it. The warrant must be signed by a judge, have the name of the location where ICE is seeking to gain entry, and a detailed description of where they will look for a subject.

Q. I’m a U.S. Citizen. Can ICE detain me?

A. If you’re a U.S. citizen, ICE has no reason to detain you, but that doesn’t mean they won’t ask to see proof of citizenship. U.S. citizens always should tell immigration authorities they are citizens. Although citizens cannot be detained, a person *can* be detained if citizenship can’t be quickly proved with a passport, voter ID card, birth certificate or other documentation. Thus, citizens should be prepared to discuss or show a way of proving their citizenship.

If you’re not a U.S. citizen, but are a legal resident in the U.S., you may want to carry your documents with you. It is also advised that you *not* carry passports or citizenship documentation from other countries, as these could be misinterpreted.

Q. If I choose to talk with ICE, may I take notes?

A. Yes. A detained person may write down details of the interview, and should be sure to write down the interrogating officers’ names.

Q. What if they want me to sign a document?

A. It is recommended that anyone detained by ICE not sign any documents outside the presence of a lawyer. Such documents could constitute waivers of court appearances, and similar

documents, that the detained person may not understand at first. Do not sign anything until your lawyer arrives.

Q. Any other advice if I choose to speak with ICE?

A. Be truthful. Lying to federal agents is, in and of itself, a crime. Be honest and clear in your responses. Further, do not feel the need to answer every question. If you do not know the answer to a question, state that you do not know. And again, no one is under any obligation to speak with ICE at all without an attorney. You may choose to remain silent until your attorney arrives.