

Government Inquiries and Investigations Involving University of La Verne

(A) Policy statement

The University of La Verne, and its respective employees, and faculty (collectively referred to as "University") will cooperate with any authorized government inquiries and investigations. While doing so, the University through its authorized representatives will assert all protections and privileges afforded by law during any such inquiries and investigations.

(B) Purpose of policy

The University may receive requests for information or documents from the Federal and state agencies ("Government Investigators") or such Government Investigators may appear unannounced at University facilities or at the homes of present or former employees for purposes of interviewing and obtaining documents. Accordingly, this policy serves to establish a mechanism for the orderly response to government investigations to enable the organization to protect the privacy interests of the university, its students and employees while cooperating with any government inquiries and investigations when required by law.

(C) Definitions

1. **Personal Subpoena** – a written command issued by a governmental agency or judge directing an individual to appear at a certain time and place to give testimony and/or to produce documents at a certain time or place.
2. **Investigative Subpoena** – a written command from a government agency authorizing the agency to inspect or seize evidence germane to an investigation. Investigative subpoenas typically ask for "immediate access" to places or documents. An investigative subpoena does not require any individual to agree to an interview.
3. **Search Warrant** – a written court order authorizing a law enforcement agent to search for and seize property that may be evidence of a crime. The search warrant will clearly describe the place to be searched and the things to be seized.
4. **Arrest Warrant** – a written court order authorizing a law enforcement agent to take the specifically-named individual into governmental custody.
5. **Government investigations** – the process by which a government agent investigates matters of potential relevance to the government including requesting interviews of current or former University employees.
6. **Government Investigator** - any employee or agent of the federal, state or local government agency who seeks information from the University that is investigative or potentially criminal in nature. Such government agencies include, but are not limited to, the Federal Bureau of Investigations (FBI), the United States Attorney General's Office, the United States Department of Justice (DOJ), the United States Immigration and Customs Enforcement (ICE), the California State Attorney General's Office, and La Verne Police Department.

(D) General Guidelines for Responding to Governmental Investigations

1. University employees shall be polite at all times; remain calm; stay in control. Listen carefully to what the government agents say.
2. Any university employee contacted by an investigator should immediately notify his or her supervisor and contact the Office of General Counsel (909-448-4753 or 909-448-4730).
3. Do not engage in small talk with agents. Minimize communication with the investigators and focus on observing and recording events.
4. There is no legal obligation to consent to an interview with an investigator. Although anyone may consent to an interview, employees are advised that they have the right to decline to be interviewed and can request a delay until legal counsel or other representation is present. Employees have the right to permit an interview only at a time and place and for a length of time convenient to the employee, including on University premises during normal business hours.
5. Employees may refuse to answer any specific questions and can terminate the interview at any time.
6. Employees who consent to be interviewed should understand that if they say something untrue, even if unintentional, they could be subjected to a criminal prosecution. Answers to investigators' questions must be accurate; never speculate or guess as to answers.
7. When an investigator arrives, ask if there is a subpoena or warrant to be served. If so, ask for a copy of the subpoena or warrant.
8. Personnel whose presence is not required for monitoring the execution of the subpoena or search warrant should be directed to leave the area.
9. No one may alter, remove, or destroy any documents or erase or delete any information (including electronic information) while an investigation is in process. Nothing should be destroyed, removed, erased, or deleted without the prior written permission of the Office of Counsel, even after the investigators have left the premises.
10. Government agents should never be left alone on university premises, and no employee should be left alone with the agents.
11. Employees should not discuss the investigation or anything related to it until the Office of General Counsel has interviewed them.

(E) Specific Procedures

1. Personal Subpoena
 - If a process server attempts to serve a subpoena related to University business, the person should be redirected to the Office of General Counsel.
 - If the process server refuses your request to visit OGC, you should immediately contact

the Office of General Counsel for directions as to whether to accept service of the subpoena.

- If you are instructed to accept service of the subpoena, or if the subpoena is left with you, follow the instructions of the Office of Counsel with regard to its handling.
- If you are unable to reach someone in the Office of General Counsel, you should accept the subpoena ONLY if it is addressed to you by name or job title.

2. Investigative Subpoena

- If a Government Investigator attempts to serve a subpoena related to University business, the person should be redirected to the Office of General Counsel.
- If the Government Investigator refuses your request to visit OGC, you should immediately contact the Office of General Counsel for directions as to whether to accept service of the subpoena.
- If you are unable to reach someone in the Office of General Counsel, ask for identification and obtain and record the names of the government agents, their agency affiliation, business telephone numbers and addresses. Obtain a business card from the agents whenever possible.
- Request a copy of the investigative subpoena.
- Attempt to negotiate an acceptable methodology with the agents to minimize disruptions and keep track of the process. Considerations include the sequence of the search; whether investigators are willing to accept copies in place of originals and if so who will make the copies; whether the University will be permitted to make its own set of copies; arrangements for access to records seized.
- Object to any search of attorney/client privileged documents.
- You may videotape, audiotape or photograph the inspection process if it is done without interfering with the agents. Always ask the agents' permission to do so. If they refuse, make a record of the refusal.
- Request a copy of the search inventory compiled by the agents. Request the investigator to note the date and time the search was completed as well as sign the inventory with the investigator's full title, address and telephone number.

3. Search Warrants

- If a Government Investigator attempts to serve a search warrant related to University matters or premises, the person should be redirected to the Office of General Counsel.
- If the Government Investigator refuses your request to visit OGC, you should immediately contact the Office of General Counsel for directions as to how to proceed.
- If you are unable to reach someone in the Office of General Counsel, ask for identification and obtain and record the names of the government agents, their agency affiliation, business telephone numbers and addresses. Obtain a business card from the agents whenever possible.
- Request copies of the warrant and the affidavit providing reasons for the issuance to the warrant.
- Request that the search not begin until legal counsel arrives.
- Although the warrant gives the government agents the authority to enter private premises, search for evidence of criminal activity, and seize those documents listed in the warrant, no staff member is obligated to speak to the agents; but must provide the documents requested in the warrant.

- Attempt to negotiate an acceptable methodology with the agents to minimize disruptions and keep track of the process. Considerations include the sequence of the search; whether investigators are willing to accept copies in place of originals and if so who will make the copies; whether the University will be permitted to make its own set of copies; arrangements for access to records seized.
- If areas are being searched or materials are being seized that, in your opinion, are beyond the scope of the warrant, **do not interfere with the search**. Document the nature of the areas being searched and items being seized that you believe are outside the scope of the warrant.
- Never consent to an expansion of the search beyond the scope of the search warrant.
- Object to any search of attorney/client privileged documents.
- You may videotape, audiotape or photograph the inspection process if it is done without interfering with the agents. Always ask the agents' permission to do so. If they refuse, make a record of the refusal.
- Request a copy of the search inventory compiled by the agents. Request the investigator to note the date and time the search was completed as well as sign the inventory with the investigator's full title, address and telephone number.
- **Under no circumstance should an employee obstruct or interfere with the search.**

4. Arrest Warrants

- If a Government Investigator appears with an arrest warrant for a specifically-named person, the person should be redirected to the Office of General Counsel.
- If the Government Investigator refuses your request to visit OGC, you should immediately contact the Office of General Counsel for directions as to how to proceed.
- If you are unable to reach someone in the Office of General Counsel, ask for identification and obtain and record the names of the government agents, their agency affiliation, business telephone numbers and addresses. Obtain a business card from the agents whenever possible.
- Request copies of the warrant and the affidavit providing reasons for the issuance to the warrant.
- Attempt to negotiate an acceptable methodology with the agents to minimize disruptions to the University community.
- Although the warrant gives the government agents the authority to take the specifically-named individual into custody, it does not require university employees to provide access to the person's campus residence for the purpose of taking him or her into custody without a search warrant. Also, no University employee is obligated to speak to the agents.
- You may videotape, audiotape or photograph the arrest process if it is done without interfering with the agents. Always ask the agents' permission to do so. If they refuse, make a record of the refusal.
- **Under no circumstance should an employee obstruct or interfere with the arrest.**

5. Government Investigator Request for Interview

- University employees are prohibited from sharing any information concerning a current or former student pertaining to educational records or concerning a former or current university employee without that person's written authorization or pursuant to one of

the legal processes discussed above.

- If a Government Investigator requests to interview a University employee regarding University business matter, the employee should immediately:
 - a. Obtain the name, title, agency, phone number and address of the Investigator (business card should suffice);
 - b. Immediately notify his supervisor, then contact the Office of General Counsel
 - c. Employees should direct the Investigator to wait until a representative from OGC arrives.

- If a Government Investigator requests an interview with an employee regarding University business matter, such persons in most instances have the right to:
 - a. Participate in the interview;
 - b. Refuse to answer any questions;
 - c. Request that legal counsel be present before answering questions;
 - d. Have the interview conducted during normal business hours at the University's place of business;
 - e. Stop the interview at any time;
 - f. Take notes during the interview; and
 - g. Retain an attorney to be present during the interview (costs may be borne by the individual).

- During the interview with a Government Investigator, employees should follow these guidelines:
 - a. Tell the truth.
 - b. Respond to all questions with statements of fact – do not speculate or guess or offer opinions. If the person does not recall something or has no knowledge of what is being asked, the person should say so.
 - c. Answer questions completely and accurately and concisely.
 - d. Legal counsel may be present at any interview.