

<b>Section:</b>	General Policies
<b>Policy Name:</b>	<b>Immigration Enforcement Action Response and Resources</b>
<b>Policy Number:</b>	14 - XXXX
<b>Policy Owner:</b>	Vice Provost and Chief Diversity Officer
<b>Responsible University Office:</b>	Office of Chief Diversity and Inclusivity/Human Resources
<b>Origination Date:</b>	March 20, 2018
<b>Effective Date</b>	March 20, 2018
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<b>Last Reviewed:</b>	n/a
<b>Authority:</b>	CA Educ. Code §66093.3; CA Gov. Code §7285.2; CA Lab. Code §§90.2 and 1019.2

## **I. SCOPE OF POLICY**

This policy applies to all University administrators, faculty and staff when responding to immigration enforcement action or other inquiries related to immigration status of University of La Verne students and employees.

## **II. DEFINITIONS**

- A. “Immigration officer” or “immigration agent” means any state, local, or federal law enforcement officer or agent who is seeking to enforce immigration law.
- B. “Immigration enforcement action” means any action taken by an immigration officer or agent seeking to enforce immigration law.
- C. “Personal information” means any information directly related to a student or employee that was gleaned from or pertains to the student or employee’s education records; employment records; personal identifiers of the student, employee or family members; or any other information of a private nature or that alone or in combination, is linked or linkable to a specific student or employee that would allow a reasonable person to identify the student or employee with reasonable certainty.

## **III. POLICY STATEMENT**

This policy serves to reaffirm and inform all staff members who enroll and advise students that the University of La Verne supports all students, staff and faculty inclusive of those that may not have legal immigration status. In addition, in 2017, the California legislature enacted California

Assembly Bill 21 (AB 21) and California Assembly Bill 450 (AB 450) to provide protection and access to necessary resources for members of education communities and employment forces, without regard to immigration status.

Effective January 1, 2018, institutions of higher education are required to adopt and implement policies to ensure protection of students, faculty, staff and the public, without regard to immigration status, so that they can access educational resources and programs free from intimidation and without fear or undue risk. Such laws mandate the protection of personal information about students, faculty and staff, including those who may be subject to detainment or investigation by the federal government due to immigration status. The state of California has made a very clear statement about reaffirming the rights of students to attain an education for the “betterment of the individual and the community is paramount, regardless of one’s immigration status.” (AB 21)

Also, effective January 1, 2018, California employers are prohibited from voluntarily consenting to the entry of immigration enforcement agents to any non-public area of the employer’s premises, as well as from voluntarily consenting to access, review of receipt of employment records by immigration enforcement agents. In addition, California employers are required to give notice to employees of employment verification record inspections and the results of such inspections, as well as to refrain from reverifying employment eligibility in any manner not required by federal law.

The President of the University of La Verne has made a clear statement that we are an inclusive University, and that as an institution we support and respect all students, staff, and faculty. To support this statement and in response to state law, the Office of Diversity and Inclusivity has posted the Government Investigations Web page providing information on what to do in case a government agent or investigator request or demands information about a University of La Verne student, staff member, or faculty member. The webpage site is <https://laverne.edu/diversity/government-investigations>. A copy of the Government Investigations Policy is attached to this policy as Exhibit A.

#### **IV. POLICY STANDARDS AND PROCEDURES**

A. All University employees who serve students in any capacity are required to read and comply with the University’s Government Investigations Policy referenced above and attached as Exhibit A on how to respond if a government agent or investigator submits a request or demands information about anyone connected to the University community. In addition to the above statement from the Office of Diversity and Inclusivity, all University employees are required to adhere to the following regarding a request for and disclosure of personal information:

- 1) Refrain from disclosing personal information about students, faculty, and staff except:
  - a) With the consent of the person identified, or if the person is under 18 years of age, with the consent of the parent or guardian of the person identified (note FERPA



prevents the release of student information without their permission regardless of age unless it is part of directory information);

- b) As may legally be disclosed under state and federal privacy laws (FERPA);
  - c) For the programmatic purpose for which the information was obtained (to support student educational goals);
  - d) As part of a directory that does not include residence addresses or the individual person's course schedules and that person has not elected to opt out (The University does not publicly post directory information or schedule information);  
or
  - e) In response to a judicial warrant, court order, or subpoena. (NOTE: Persons wishing to serve or execute such matters should be directed to the Office of General Counsel. This includes all locations).
- 2) If you are contacted by an immigration officer on campus or otherwise become aware that an immigration officer is expected to or has entered campus, immediately notify the Office of General Counsel (909 448-4730 or 909 448-4753) and Campus Security (909 448-4950). They will provide information on how to proceed according to the University Government Investigations policy.
- 3) If you become aware a person in the University of La Verne Community has been taken into custody due to immigration status, immediately contact the Office of Chief Diversity and Inclusivity or the Office of General Counsel for legal guidance. You must also contact the appropriate office as stated below:
- Traditional Undergraduate - The Office of Academic Advising (909 448-4510)
  - CAPA/ROC undergraduates and graduates – Advising and Retention Services for ROC and CAPA (909 448-4994)
  - Main Campus Graduate/Doctoral Students – Office of Graduate Services (909 448-4504)
  - Law Students – College of Law Office of the Registrar (909 460-2010)
  - University Employees – Office of Human Resources (909 448-4076)

B. The University of La Verne shall make reasonable and good faith accommodations regarding enrollment and financial aid for a student who may miss classes or not be able to complete a semester due to detainment or other immigration enforcement action. It is the responsibility of each of the offices listed above to be the liaison with the student, or a designated representative, and establish contact with each faculty member of the classes in which a student is enrolled to (1) notify them that the student is not able to attend, and (2) determine the feasibility of completing or withdrawing from courses. Examples of possible accommodations are as follows:

- Student allowed to withdraw from all classes without appeals if detained prior to the last date of the term or semester. It should be verified the student has been making satisfactory progress in the courses prior to being detained.
- On-behalf of the student, negotiate grades of “INC” if the student has successfully completed at least 60% of the coursework.
- If the student is detained early in the term or semester, explore the possibility of a drop for all classes.

Decisions on possible accommodations must be made in consultation with the University Registrar or the College of Law Registrar, and the Director of Financial Aid.

C. The University of La Verne has designated the following persons to serve as a point of contact for members of the University community who may be subject to immigration enforcement action. These designees will also make a reasonable and good faith effort to notify the emergency contact of the affected member of the University community as soon as possible if there is reason to believe the member has been taken into custody for immigration matters:

- The Dean of Students shall serve as the primary point of contact for students who may be subject to immigration enforcement. The University Registrar along with the Dean of Student Affairs or their designees will attempt to reach the student’s emergency contact if a contact name and number is on record.

- The University Registrar will be the primary contact regarding student records, including documentation regarding student enrollment/academic status affected by immigration matters. The University Registrar should be included in all correspondence. All information must be supported and documented in writing. Supporting documentation would be inclusive of subpoenas, warrants, instructor verification of attendance and statements from the student. All documents must be scanned into BDMS by the appropriate contact office as stated above. Questions should be addressed to the University Registrar.

- The AVP for Human Resources shall serve as the primary point of contact for employees who may be subject to immigration enforcement action. The Office of Human Resources will attempt to reach the employee’s emergency contact if a contact name and number is on record.

D. The University of La Verne will:

- 1) Refrain from voluntarily consenting to the entry of immigration enforcement agents into any non-public area without a judicial warrant;

- 2) Refrain from voluntarily consenting to access, review or receipt of employment records by immigration enforcement agents without a subpoena, judicial warrant or pursuant to an authorized I-9 employment eligibility verification process;
- 3) Provide written notice to all employees within 72 hours of receiving a Notice of Inspection of I-9 forms or other employment records;
- 4) Provide written notice of the results of an I-9 inspection to each current affected employee identified by the immigration agency as one who may lack work authorization or whose documents were identified as having deficiencies within 72 hours of receipt of such results;
- 5) Refrain from reverifying employment eligibility in a manner not required by federal law

E. A copy of this policy shall be posted on the University's website, with a link to the policy accessible from the websites of the Office for Human Resources, Office of Student Affairs and Office of Diversity and Inclusivity.

Date of Approval: 3-20-18

Approved by:

- Board of Trustees
- President's Executive Cabinet
- President
- Other: \_\_\_\_\_

Audience:

- Public
- University Community Only
- Department Only: \_\_\_\_\_

**Exhibit A**

Government Investigations Policy (Attached)



## 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 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 and 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 local police departments.

**(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 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.