Warrants and Subpoenas that May Be Used by Immigration Enforcement Officers

This document is intended to assist school site administrators in identifying the types of authority that may be provided by immigration officers making requests for access at school sites.

Guidance on responding to federal warrants, Immigration and Customs Enforcement (ICE) administrative warrants, administrative subpoenas, federal judicial subpoenas, and court orders can be found in the Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's TK-12 Schools in Responding to Requests for Access and Information for Immigration Enforcement Purposes, pages 24 - 32.

Annotated samples of these authority types are provided on pages 2 - 5 of this document.

Consult with the local educational agency (LEA) legal counsel before using this document to staff.

1. This document is not intended as legal advice. LEAs should work with their legal counsel to adopt written procedures for responding to each authority type.
2. These procedures should anticipate and provide guidance for circumstances which could require site administrator to act before being able to consult with the superintendent/designee or legal counsel. Some of the possible scenarios include:
    a. An immigration officer asserting that they are unwilling to wait for the site administrator to contact the LEA's superintendent/designee and/or legal counsel before acting on a federal warrant.
    b. An immigration officer asserting that they have the authority to act immediately without providing proper evidence of that authority and without declaring that exigent circumstances exist.
    c. The presentation of a federal search and seizure warrant that includes one or more of the following errors:
        i. The name of the person to be searched is not correct.
        ii. The address of the location to be searched is not correct.
        iii. The warrant is presented after the date by which it was required to be executed.
        iv. The warrant has not been signed or does not indicate that it was signed by a Judge or Magistrate Judge.
    d. The document or court order that is provided does not match those described in this document.
    e. An immigration officer is intent on using a federal arrest warrant to arrest a suspect on campus while school is in session.

Related Resources

- Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's TK-12 Schools in Responding to Requests for Access and Information for Immigration Enforcement Purposes
- Quick Reference Guide for School Officials
- Immigration Officer Incident Report
- Immigration Resources for Educators and School Leaders

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

) Case No.

The name of the person and/or address for the search must be correct.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the _____ District of _____
(identify the person or describe the property to be searched and give its location):

NOTE: Only the person, property and areas specified in the warrant may be searched.

I find that the affidavit(s), or any recorded testimony, establishes probable cause to search and seize the person or property described above, and that such search will reveal *(identify the person or describe the property to be seized)*:

The search must be conducted on or before the date listed.

YOU ARE COMMANDED to execute this warrant on or before _____ *(not to exceed 14 days)*
' in the daytime 6:00 a.m. to 10:00 p.m. ' at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to _____.
(United States Magistrate Judge)

' Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized *(check the appropriate box)*
' for _____ days *(not to exceed 30)* _____.

Verify that the warrant is signed and that the printed title is Judge or Magistrate Judge.

Date and time issued: _____

_____
Judge's signature

City and state: _____

_____
Printed name and title

SAMPLE

UNITED STATES DISTRICT COURT

for the

United States of America
v.

Case No.

_____
Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay
(name of person to be arrested)
who is accused of an offense or violation based on the following document filed with the court:

' Indictment ' Superseding Indictment ' Information ' Superseding Information ' Complaint
' Probation Violation Petition ' Supervised Release Violation Petition ' Violation Notice ' Order of the Court

This offense is briefly described as follows:

SAMPLE

Verify that the warrant is signed and that the printed title is Judge or Magistrate Judge.

Date: _____

_____
Issuing officer's signature

City and state: _____

_____
Printed name and title

Return

This warrant was received on *(date)* _____, and the person was arrested on *(date)* _____
at *(city and state)* _____.

Date: _____

_____
Arresting officer's signature

_____
Printed name and title

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

WARRANT OF REMOVAL/DEPORTATION

Issued the US Immigration and Customs Enforcement agency.

File No: _____

Date: _____

To any immigration officer of the United States Department of Homeland Security:

_____
(Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- ☐ an immigration judge in exclusion, deportation, or removal proceedings
- ☐ a designated official
- ☐ the Board of Immigration Appeals
- ☐ a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homel Security under the laws of the United States and by his or her direction, command you to take into custody and remo from the United States the above-named alien, pursuant to law, at the expense of:

SAMPLE

Signed by the immigration officer.

_____
(Signature of immigration officer)

_____
(Title of immigration officer)

_____
(Date and office location)

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY **IMMIGRATION ENFORCEMENT SUBPOENA** **to Appear and/or Produce Records** 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To (Title of Proceeding) (File Number, if Applicable)	

Issued by the Department of Homeland Security.

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

(A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated in Block 2.

(B) ☒ **PRODUCE** the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).

SAMPLE

3. (A) CBP, ICE or USCIS Official before whom you are required to appear Name Title Address Telephone Number	(B) Date (C) Time ☒ a.m. ☐ p.m.
4. Records required to be produced for inspection	

Subpoenas must be evaluated by the LEA and their legal counsel, and appropriate notice must be given to the person identified in the subpoena before the LEA responds.

If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

5. Authorized Official

(Signature)

(Printed Name)

(Title)

(Date)

DHS Form I-138 (6/09)

UNITED STATES DISTRICT COURT

for the

_____)
Plaintiff)
v.) Civil Action No.
_____)
Defendant)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

(Name of person to whom this subpoena is directed)

' *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

Place:	Date and Time:

' *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

SAMPLE

Subpoenas must be evaluated by the LEA and their legal counsel, and appropriate notice must be given to the person identified in the subpoena before the LEA responds.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(d), relating to your protection as a person subject to a subpoena, and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

_____ _____
Signature of Clerk or Deputy Clerk *Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____ _____, who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).