



CWDA Immigration Webinar

Q & A

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1. **Can ICE come into a DPSS office to make arrests?**
 - a. Yes. However, for any area of the office that is *not* open to the general public, it is completely appropriate to require that they have a Judicial Warrant before they enter any area that's not generally open – where you would have a reasonable expectation of privacy. You should know that ICE has a document that they often present and say, "I have a warrant," but it is not always a judicial warrant; rather it's a document they use that's called a warrant of deportation. It will say ICE or Homeland Security on it. A Judicial Order is required to overcome your 4th Amendment rights against unreasonable search and seizure, that document will have the name of a court on the top and will be signed by a judge. CPCA has sample policies and procedures for health center that could be adapted for DPSS offices.
2. **I've heard 2 types of warrants - judicial and administrative. What are the differences between the 2 and how can one easily identify if a document is one or the other.**
 - a. Everyone has a right under the 4th Amendment of the constitution to not be searched or taken into custody in an unreasonable manner. That includes the fact that any location that is not open to the public is one that any person would have a reasonable expectation of privacy. In order to conduct any kind of search in that location, any law enforcement officer including ICE must have a warrant that was issued by a court. A warrant that was issued by a court will say the name of the court on top and will have a judge or magistrate's signature on the bottom. ICE has documents that are called warrants but are NOT judicial warrants for constitutional purposes. Sometimes they try to give those to people and tell them they are a warrant. They will say warrant on the document, but it will not say court on the top; it will say ICE or Homeland Security, it might also say ERO, which is Enforcement and Removal Operation. You are looking for the word, "court". If people are concerned about what happens to their clients, it's helpful to advise people to take a picture of it and text it to someone that can help them determine whether it's a judicial warrant or not. Since we are talking about the possibility of ICE coming to people's houses, another piece of information for people is that they should not open the door because the other time law enforcement can come into a place that has an expectation of privacy is with someone's consent. If they open the door to ICE, they will interpret that as consent. So, if they claim they have a warrant, the individual should ask them to either slide it under the door or hold it up to the window so that they can look at it instead of opening the door.
3. **As previously stated, ICE can come in to DPSS offices to make arrests but only in areas of the office that are open to the public. How does staff proceed in proceeding with someone sitting in a lobby vs. someone sitting in an interview booth?**
 - a. Ideally the county would have policies that would identify one or two staff people during the period that the office is open who would be trained to go to the ICE agent, ask them for a

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warrant and ask them to leave if they do not have a judicial warrant. It is extremely rare for ICE to have judicial warrants.

- 4. If ICE enters a social service agency with a judicial warrant can they obligate staff to speak or give information about the customer?**
 - a. No. The warrant allows them to go into the non-public spaces and observe anything in plain view. So, if there's a paper on the table they can read what that paper says. If there is a file folder on the table, they can't open the file folder and look at what's inside. One thing that the county might want to incorporate into its policies, is to direct everybody to turn off their computer screens in the event that ICE or another law enforcement agency comes to their location. Another part of the plain-view test is that it's also anything that can be perceived. For example, if someone was smoking in the office and they could smell it or if someone says something about one of the clients and they could hear that, they would be able to go into their space, but they could not compel anyone to give up their other constitutional right (5th Amendment) to remain silent.
- 5. Would ICE be able to get information from the state systems themselves without asking the state or counties?**
 - a. No. By law that information is confidential and can only be used for administration of the program.
- 6. County staff are obviously subject to the political will of their individual boards of supervisors. What is being done to reach out to faith-based entities?**
 - a. There's Catholic social justice organization called Network that is an active member of their campaign. Clergy & Laity United for Economic Justice (CLUE) in LA has been organizing around immigrant rights issues locally as well. We do encourage everyone to share the information in our toolkit with any partner organizations and faith-based groups that you are working with to help arm them with good information.
- 7. I am a nurse working with immigrant mothers and their children (many are US citizens). My clients get mixed messages about using benefits like CalWORKs or childcare while they are applying for asylum. Is there any truth to this?**
 - a. People who have asylum are exempt from public charge. So, there is no truth to that for asylees.
- 8. If one is picked up by ICE and is going through the Immigration Court process is there a toolkit available to help navigate the Immigration court system? We hear Immigration Court is not the same as other court systems.**
 - a. We are not familiar with a toolkit like that, but the [Immigrant Legal Resource Center](#) might have one.
- 9. Where can I find a copy of "your rights" card that you can present to ICE?**
 - a. There is a printable "[Passport to Your Rights](#)" in the toolkit, under "Client Resources".
- 10. Counties use USCIS SAVE to verify immigration status. Is this information available to ICE?**
 - a. No. That information is not available to ICE. It is, like anything else in the benefits system, confidential and only to be used to verify eligibility. Federal immigration law prohibits the use of the SAVE database for non-criminal immigration enforcement. (U.S. code 1320b – 7 note)
- 11. Does that imply that USCIS can use the SAVE data for criminal matches?**
 - a. Yes, we believe so. The most common criminal immigration enforcement is for people that have been deported and come back into the United States without permission. Those people are obviously undocumented and aren't going to have anything to verify in the SAVE database.
- 12. California has issued more than a million Drivers Licenses to immigrants. Does ICE have access to the information without a warrant?**
 - a. The documents you provide to the DMV to prove your identity, name, residency, and age are not a public record. The DMV may not disclose this information, except when requested by a law enforcement agency as part of an investigation, including potentially Immigration and

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Customs Enforcement (ICE). DMV would only provide this information to ICE if the federal agency is already looking for a particular person as part of an investigation. Moreover, AB 60 licenses are *not* marked differently from other licenses within the DMV database.

<https://www.aclunc.org/our-work/know-your-rights/know-your-rights-ab-60-era-resistance>

- 13. Where can we refer immigrant customers who are interested in "paying back" or somehow reimbursing their public charge benefits so they may apply for LPR or another immigration status?**
- This is a myth.* People cannot avoid public charge by "paying back benefits". There's no mechanism for doing that. The best thing that they can do is try to get as much education, skills, and work experience as they can, so they will be assessed going forward as a person who is likely to be able to support themselves and their family members.
- 14. Do you have an idea of when public charge changes will come into effect/law (if it does)?**
- We don't know when the proposed regulation will be published, we have only seen leaked drafts. Once the proposed regulation is published, there will be a public comment period that we expect to last 60 days. After the public comment period is complete, then USCIS must review and respond to all the comments. The proposed regulation could come out at any time, so unfortunately, we don't know for certain when that might be.
- 15. Can a parent seeking asylum (but not yet granted) using assistance for their US born child have this use of benefits counted against them in the decision to receive asylum?**
- No. The only place in immigration law that takes benefits into consideration, absent fraud, would be in determining a public charge. Since asylees are exempt from public charge, they don't have to consider that.
- 16. Given that previous aid will not be counted for public charge retroactively, would the recommendation be for customers to self-terminate their benefits to avoid being determined a public charge for future inquiries?**
- The hope is that low income people will not stop using essential services because they are worried about being a public charge, but everyone needs to make that decision on their own. When they apply to become permanent residents, they will have to answer a question about whether they have used public benefits. If they have, they must answer, "yes" – whether it was yesterday or ten years ago. They can't hide the fact that they've used benefits, although they may have a better balance of factors for their public charge analysis if they did get off benefits at some point in the past. It's a horrible thought that people will have to give up health care or food for their kids because they are worried about not being able to stay here permanently, but that's where we are.
- 17. The public charge resource states that the White House is forcing immigrant families to make an impossible choice between meeting basic needs and keeping their families together in this country? What does this mean?**
- People are giving up benefits, to which they are entitled, because they are concerned that they will not be able to become permanent residents.
- 18. Usually cash assistance is given to the children when the parents are undocumented. If the parents are working part time, would this still be considered Public Charge?**
- Under the current rules, it is not considered public charge if it's a child-only grant and the parents are not living off it. Under the proposed rules that we've seen, benefits that were received by a dependent would be considered a negative factor in the public charge analysis. It could potentially be considered, in the case that proposed regulations are approved, which has not happened yet. However, public charge will be assessed at the time that the person applies to become a permanent resident. Undocumented immigrants generally do not have the opportunity to apply to adjust their status. Many times, when they do it's because they have been victims of a crime and become eligible for a U-Visa, and people that have U-Visas are exempted from public charge.

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19. Under the proposed changes, will PRUCOL be treated the same?

- a. Yes. There is no change to eligibility. These changes would only apply in the immigration process.

20. What was the name of the public charge proposal, I want to search the registry.

- a. There's nothing yet, but when it comes out it will be published in the federal register as a notice for proposed rule making from USCIS. You can find out what is going to be published in the federal registry the next day by going to the federal register public inspection page. Notices are published there every day at 8:45 and 4:15 Eastern. If you'd like to see the version that has been leaked, the most recent version was in the [Washington Post in March](#).

21. Do you have same webinar in other languages? My clients may want to understand more about it.

- a. Unfortunately, the webinar is only available in English; however, some of the materials in the [immigration toolkit](#) are translated in multiple languages.