

# **KNOW YOUR RIGHTS AND OPTIONS: A WEBINAR FOR COMMUNITY COLLEGE AND ADULT SCHOOL STUDENTS**

**MARCH 9, 2017**



# AGENDA

- 1. Know Your Rights**
- 2. Safe zones/Sanctuary policies**
- 3. Information if you're planning to continue your education**
- 4. Information if you're planning to join the workforce**
  - ITINs
  - Professional License
  - WIOA

# **KNOW YOUR RIGHTS**

**IGNACIA RODRIGUEZ**  
**IMMIGRATION POLICY ADVOCATE**



# WHAT TO DO IF YOU ARE QUESTIONED BY THE POLICE OR ICE

Everyone who  
lives in the U.S.  
has legal rights,  
regardless of  
immigration status



# **WHAT TO DO IF YOU ARE QUESTIONED BY THE POLICE OR ICE**

**You have the right to ask an officer if you are being arrested or detained.**

**If the officer says, “NO, you are not being arrested or detained,” ask the officer if you can leave.**

- If the officer says you can leave, leave calmly.

**If the officer says, “YES, you are being arrested or detained,” you have the right to remain silent and the right to speak to an attorney.**

# RIGHT TO REMAIN SILENT

- You do not have to answer questions about your legal status, where you were born, or how you came to the U.S.
- You can tell the officer that you have the "right to remain silent" or just hand over the Know Your Rights card.
- In some states, you have to give your name if the officer asks.
- **Do NOT give false information or lie.**

## To: Immigration or Other Officer

Right now I am choosing to exercise my legal rights.

- I will remain **silent**, and I refuse to answer your questions.
  - If I am detained, I have the right to contact an attorney **immediately**.
  - I refuse to sign anything without advice from an attorney.
- Thank you.

## Al funcionario de inmigración u otro tipo de funcionario:

En este momento elijo ejercer mis derechos legales.

- Permaneceré en **silencio**, y me niego a responder a sus preguntas.
  - Si me detienen, tendré el derecho de comunicarme con un abogado **inmediatamente**.
  - Me niego a firmar nada sin haber consultado con un abogado.
- Gracias

# RIGHT TO AN ATTORNEY

- You have the right to talk to a lawyer before you answer questions.
- You can tell the officer that you want to talk to your lawyer first or show your know your rights card.



# ARREST WITH A WARRANT

- Ask for a **warrant**.
  - Look for your name, address, and a signature from a **judge**.



# SAMPLE WARRANT - JUDICIAL

AO 93 (Rev. 12/09) Search and Seizure Warrant

## UNITED STATES DISTRICT COURT

for the  
Eastern District of California

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

540 Oak Avenue  
Davis, California 95616

Case No.

### SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

2:11-SW-0161 EFB

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 EASTERN District of CALIFORNIA  
(Identify the person or describe the property to be searched and give its location):

SEE ATTACHMENT A, ATTACHED HERETO AND INCORPORATED BY REFERENCE

The person or property to be searched, described above, is believed to conceal (Identify the person or describe the property to be seized):

SEE ATTACHMENT B, ATTACHED HERETO AND INCORPORATED BY REFERENCE

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property.

**YOU ARE COMMANDED** to execute this warrant on or before

5-9-2011

(not to exceed 14 days)

☐ in the daytime 6:00 a.m. to 10 p.m.

☐ at any time in the day or night as I find reasonable 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

(name)

☐ 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).

☐ Until, the facts justify, the later specific date of \_\_\_\_\_.

Date and time issued: 4-25-2011  
9:10:00 AM

  
Judge's signature

City and state: SACRAMENTO, CALIFORNIA

EDMUND F. BRENNAN, U.S. MAGISTRATE JUDGE

Printed name and title

# SAMPLE WARRANTS - IMMIGRATION

U.S. Department of Justice  
Immigration and Naturalization Service

## Warrant of Removal/Deportation

File No: \_\_\_\_\_

Date: \_\_\_\_\_

To any officer of the United States Immigration and Naturalization Service:

\_\_\_\_\_  
(Full name of alien)

who entered the United States at \_\_\_\_\_

(Place of entry)

on \_\_\_\_\_

(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 district director or a district director's 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:  
Section 241(a)(5) of the Immigration and Nationality Act(Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

\_\_\_\_\_  
(Signature of INS official)

\_\_\_\_\_  
(Title of INS official)

\_\_\_\_\_  
(Date and office location)

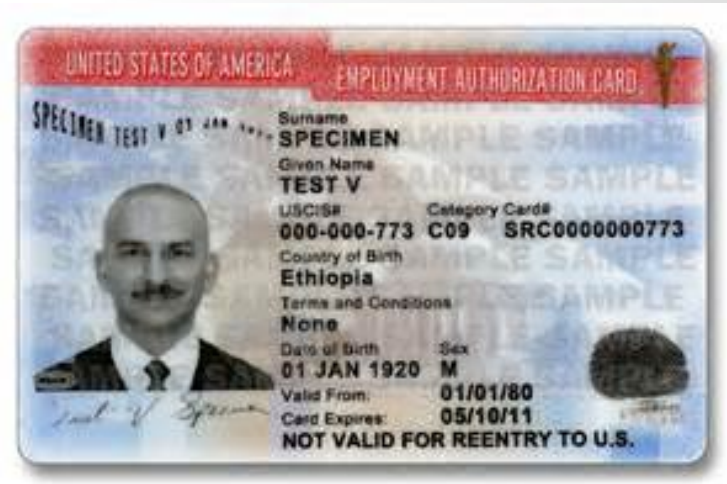
# DON'T SIGN DOCUMENTS

- You do not have to sign papers that you do not understand. Wait until you talk to a lawyer.
- Do not let someone pressure you into signing papers.



# DOCUMENTS

- If you have valid immigration documents, you may show them. Always carry the original or a copy with you.
- DO NOT carry papers from another country
  - If you have these, they can be used against you in the deportation process
  - Examples: Passport, consular ID



# **SAFE ZONES/SANCTUARY POLICIES**

**JESSICA HANSON  
SKADDEN FELLOW**



# 1. COMPONENTS OF SANCTUARY POLICIES

## 2. HOW TO ENCOURAGE YOUR SCHOOL/ DISTRICT TO ADOPT A RESOLUTION





# SENSITIVE LOCATIONS

- Hospitals
- **Schools**
- Places of Worship
- Public Religious Assemblies (e.g., weddings, funerals)
- Demonstrations
- Special exceptions for sensitive locations
  - Someone who poses an imminent threat, such as a national security risk
  - Immediate pursuit of a felon or person who poses danger to the public
  - Risk of destruction of property



# STUDENT PRIVACY

## The Family Educational Rights and Privacy Act (FERPA)

- **Adult school/community college district cannot disclose personally identifiable information in student “education records”**
  - Exceptions: consent or subpoena
- **District can disclose “directory information” without consent unless students have **opted out****
- **There may also be state privacy laws**



# **POLICY COMPONENT: PROTECTING RECORDS**

- **District & educators do not include immigration status in education records**
- **District does not inquire about a student or family member's immigration status**
- **District does not include place of birth in directory information**
- **No communication with ICE about a student's immigration status**
- **Students know they can opt out of directory information disclosure**
- **District/school does not release data without subpoena and legal advice**



# **POLICY COMPONENT: RESTRICTING ICE ACCESS**

- **Create process for ICE to request access to school site**
- **Superintendent and/or General Counsel shall ask for the immigration agent's credentials, ask the agent why the agent is requesting access, and ask to see a warrant**
- **ICE must show a warrant signed by a federal or state Judge**



# **POLICY COMPONENT: CAMPUS SECURITY**

- **Campus security are prohibited from inquiring about or recording any information regarding an individual's immigration status.**
- **Campus police shall not participate in immigration enforcement efforts.**

# POLICY COMPONENT: PROVIDING RESOURCES AND INFORMATION

- Support for undocumented, DACAmented and Muslim students
- Create resource and info centers
- Pay for legal representation of students and family members facing deportation
- Create rapid response plan for campus
  - Text, email, or phone “tree”
  - Call CHIRLA’s hotline to report a raid: 1-888-6CHIRLA ([1-888-624-4752](tel:1-888-624-4752)).
  - Send text messages to United We Dream at 877877.
  - If it’s possible, take photos and videos, and also take notes on what happened.



# ENCOURAGE YOUR SCHOOL TO ADOPT A POLICY

- ***Adult schools:*** Present resolutions at Board of Education meetings and provide testimony to declare all schools in the district sanctuaries.
- ***Community colleges:*** Introduce a resolution to school leadership to make the school a sanctuary.
- ***Both:*** Get involved by providing comments, having alumni, students, and supportive faculty also provide comments.

# ENCOURAGE YOUR SCHOOL TO ADOPT A POLICY

- ***Talking Points:***

- Students must feel safe to be able to learn.
- Teachers cannot fulfill their mission of educating if students are distracted by fear.
- We are all connected.
- The school/district can and must commit material and psychological support for its students to thrive.
- Students have constitutional rights and the school should ensure any agency coming onto campus abides by constitutional rules.
- A safe zone resolution will ensure consistent responses on campus to immigration agents.

# MODEL RESOLUTIONS

- **Model Campus Safe Zones Resolution Language (K–12, includes adult school language) -**  
<https://www.nilc.org/issues/immigration-enforcement/campus-safe-zones-language-k-12/>
- **Model Campus Safe Zones Resolution Language (Colleges & Universities) -**  
<https://www.nilc.org/issues/immigration-enforcement/campus-safe-zones-language-college/>

# **Information if you're planning to continue your education**

**IGNACIA RODRIGUEZ**  
**IMMIGRATION POLICY ADVOCATE**





# CONTINUING YOUR EDUCATION

- **Recently proposed immigration relief has an educational requirement**
  - DACA: High School diploma or state equivalent (GED), possibly vocational training
  - BRIDGE Act: High School diploma or state equivalent (GED)
  - Last version of the DREAM Act : HS diploma or GED + 2 years in college working on a Bachelor's degree or a higher degree
- **It's in your best interest to stay in school and to pursue higher education BUT plan for all possible scenarios**
- **To learn about the California GED exam, visit <http://www.gedtestingservice.com/educators/home>**

# AB 540

- Qualifying for AB 540 allows a student to:
  - Pay the same tuition as residents of CA do (not out-of-state fees)
  - Qualify for the [California DREAM Act](#) and receive certain forms of state aid and institutional aid.
  - Possibly qualify for [DREAM Loan](#) depending on what school they attend.
- How do you qualify? A student may qualify for exemption from nonresident tuition/[AB540](#) by
  - ✓ Graduating from a CA High School or attaining a high school Equivalency Certificate issued by the California State GED office or Certificate of Proficiency, resulting from the California High School Proficiency Examination;
  - ✓ Registering or being currently enrolled at an accredited institution of public higher education in California;
  - ✓ Filing an affidavit **with the school** stating that they will apply for legal residency as soon as possible; AND...

# AB540

- ✓ Meeting the number of years in a California school requirement:
  1. High school attendance in CA for three or more years OR
  2. Attainment of credits earned in California from a California high school equivalent to 3 or more years of full-time high school coursework and a total of three or more years of attendance in California of K-12 schools.
- **Unfortunately, attendance in a CA adult school program does not count towards the three-year requirement.**
- **NOTE:**
  - **AB540 students must not hold a valid non-immigrant visa (F, J, H, L, A, E, etc.)**
  - **T visa holders, U visa holders, and DACA recipients CAN apply for AB540**

# **Information if you're planning to join the workforce:**

**ITINs, professional  
licenses, and wioa**

**JOSH STEHLIK  
SUPERVISING ATTORNEY**



# **INDIVIDUAL TAXPAYER IDENTIFICATION NUMBERS (ITINS)**

# WHAT IS AN ITIN?

- **In 1996, the IRS created the Individual Taxpayer Identification Number (ITIN) for tax law compliance.**
- **ITINs are a tax processing number issued by the IRS for taxpayers who are not eligible to obtain SSNs.**
- **Individuals eligible for an ITIN include:**
  - Unauthorized immigrants,
  - Certain lawfully present individuals, and
  - U.S. resident aliens/nonresident aliens.

# HOW TO APPLY FOR AN ITIN

- **IRS Form W-7, along with a federal tax return – it cannot be a standalone application.**
- **Approximately 6 to 8 weeks for processing plus time for processing tax return (may vary and has slowed down in recent years).**
- **Must include original or certified documents proving foreign status and identity.**
  - I.e., passports, USCIS photo ID, U.S. driver's license, visa issued by the U.S., foreign military ID, birth certificate, medical records, birth records, etc.
  - Notarized copies are not allowed.

# TAX CREDITS AND ITINS

- **SSN and ITIN holders *generally* subject to same rules, deductions and credits.**
- **Refundable credits:**
  - IRC dictates eligibility for refundable credits.
  - Refundable credits are not “federal public benefits.”
  - Welfare reform amended Earned Income Tax Credit eligibility to render ITIN holders ineligible.
- **ITIN holders are still eligible for the Child Tax Credit and the Additional Child Tax Credit.**



# BENEFITS OF THE ITIN

- **It facilitates tax compliance.**
- **Ensures all workers report income and pay taxes:**
  - Approximately 3 million ITIN tax filers (2010).
  - ITIN filers pay over \$9 billion in annual payroll taxes and over \$870 million in federal income tax.
- **Ensure all eligible workers receive earned tax benefits, including:**
  - Child Tax Credit and Additional Child Tax Credit, programs proven to prevent children from falling into poverty;
  - Affordable Care Act Coverage (for those with eligible dependents—citizens, nationals or lawfully present in the U.S.)
- **Support immigration petitions/applications.**

# OTHER CHALLENGES TO THE ITIN

## **Allegations of fraud despite evidence that errors are the result of:**

- Overly burdensome ITIN application requirements,
- Complicated tax law, and
- Reliance on incompetent/dishonest tax preparers.

## **Threats to limit CTC/ACTC eligibility by excluding ITIN holders (either taxpayers or dependents) from eligibility for the credits.**

- Would deny nearly 1 million children with ITINs and possibly 4.5 million U.S. citizen children of ITIN filers access to the ACTC to cover basic expenses.
- Over 75 percent earn less than \$30,000 per year.
- Nearly half of these workers are raising children on hourly wages of \$10 or less.

# **BENEFITS AND RISKS OF ITIN FILING**

## **Post-Election Concerns**

- Current law (IRC § 6103) provides strong confidentiality provisions for tax-filing data held by the IRS.
- However, it is possible that Congress or the incoming Trump Administration could make changes to existing law.

# ASSESSING THE RISKS

- **If you already have an ITIN, the IRS already has your information. As such, you are not necessarily increasing your exposure by renewing your ITIN or filing taxes with an ITIN unless you have recently changed your address.**
- **Not all ITIN filers are undocumented, so filing taxes with an ITIN does not confirm immigration status.**

# **IMMIGRANT ELIGIBILITY FOR PROFESSIONAL LICENSES IN CALIFORNIA**

# **IMMIGRANT ELIGIBILITY FOR OCCUPATIONAL LICENSES**

- **Immigrant access to occupational and professional licenses is governed by both federal and state laws**
- **Occupational licenses (or certifications) often required not only for professional positions (e.g. attorneys) but also for a wide range of jobs with lower entry requirements**
- **In California, for example, a license or certification is required for more than 100 different jobs, including barber, cosmetologist, and pest control applicator**

# FEDERAL LAW

## **USC 1621: limits eligibility for “State and local public benefits” to “qualified aliens”**

- Benefits expressly defined to include “professional licenses”
- “Qualified aliens” exclude undocumented individuals, but also some individuals with lawful presence, including those with deferred action or TPS

**States can affirmatively expand immigrant eligibility by passing a state law after 8/22/96**

## **STATES THAT HAVE EXPANDED IMMIGRANT ELIGIBILITY FOR LICENSES: CALIFORNIA**

- Landmark law, SB 1159, provides for eligibility for professional/occupational licenses regardless of status
- Allows for ITIN in lieu of SSN
- Passed after the state legislature had previously expanded access to attorney licenses regardless of status



# WHAT'S WIOA? A REFRESHER

- Workforce Innovation and Opportunity Act (WIOA)
- Passed in 2014 with overwhelming, bipartisan support in the House (415-6) and Senate (95-3)
- Reauthorizes prior Workforce Investment Act (WIA) legislation
- Key federal legislation that provides for workforce development and adult education and skills training nationally

# WIOA IS A SUBSTANTIAL FEDERAL INVESTMENT IN JOB TRAINING & EDUCATION

## *Title I (workforce)*

**\$2.62 billion in funding**

**~100,000 people served via job training\***

**Millions more provided job-search assistance**

**Participants must be work-authorized**

## *Title II (adult education)*

**\$600 million in funding**

**~1.5 million people served via classes**

**Silent on work authoriz/immigration status**



# QUESTIONS?

**Ignacia Rodriguez**

**[rodriguez@nilc.org](mailto:rodriguez@nilc.org)**

**Jess Hanson**

**[hanson@nilc.org](mailto:hanson@nilc.org)**

**Joshua Stehlik**

**[stehlik@nilc.org](mailto:stehlik@nilc.org)**

**National Immigration Law Center**

**[www.nilc.org](http://www.nilc.org)**

