



Office of
New Americans
DELAWARE

Know Your Rights on Immigration

Guidance for organizations that serve immigrant communities

Immigrants have rights.

The Delaware Department of Justice’s mission is to protect the constitutional rights of every resident of this state. Regardless of who holds office, every Delawarean has basic rights and civil liberties that govern the authority of law enforcement and the criminal justice system. **Those rights are independent of citizenship or immigration status**—everyone has them, including undocumented immigrants. The material listed below will help your organization understand your rights when interacting with federal immigration enforcement.

Is Delaware a “sanctuary state”?

- “Sanctuary state” is an informal phrase and does not appear in Delaware law.
- Immigration enforcement is a federal responsibility, and the federal government cannot force state or local police or prosecutors to enforce immigration law in the absence of a formal agreement to do so.¹ State and local law enforcement focus on public safety and the laws of Delaware.
- All residents of Delaware, regardless of immigration status, are entitled to the protections of state and federal law, including under the Delaware Constitution and the United States Constitution, and the rights outlined in this document.

What if police or immigration officials want to enter my business to enforce immigration laws?

- **For your safety, do not resist immigration officers if they enter your home, whether or not they enter with legal authority.**
- The Fourth Amendment of the U.S. Constitution provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated,”² and the Fourth Amendment also applies to searches of other private

¹ Section 287(g) of the U.S. Immigration and Nationality Act (8 U.S.C. § 1357(g)) allows state and local law enforcement to enter formal agreements (“287(g) agreements”) to work under the supervision of U.S. Immigration & Customs Enforcement. **287(g) agreements are unlawful in Delaware.**

² *Lange v. California*, 594 U.S. 295, 301, 141 S. Ct. 2011, 2017, 210 L. Ed. 2d 486 (2021)



Office of
New Americans
DELAWARE

property such as non-public businesses and areas.³ Fourth Amendment protections apply regardless of a person’s immigration status.⁴

- Accordingly, an immigration officer must have an arrest warrant or a search warrant that has been signed by a judge in order to enter a home or the private areas of a business without consent. A warrant of deportation/removal, which has not been signed by a judge, does not allow officers to enter a home or the private areas of a business without consent unless exigent circumstances exist.⁵
- You may ask which agency the officers represent, and specifically if they are immigration officers or from Immigration and Customs Enforcement (ICE). You may also ask to know their name and badge numbers.
- You may ask the officers why they are at your business or organization.
- Law enforcement is generally permitted under the Fourth Amendment to enter the public areas of a business or organization. You may ask to see a warrant before letting officers inside the private areas of your business. If the warrant is not issued by a court and signed by a judge, you do not have to agree to let them inside the private areas your business unless exigent circumstances exist.
- If officers nevertheless enter private areas of your business without a warrant, you should not resist. You may tell them that they are not allowed to enter and that you do not consent to a search.

If officers enter private areas of your business to enforce immigration law without your consent or a valid search or arrest warrant that has been signed by a judge, you or someone acting on your behalf may file a complaint with the Delaware Department of Justice’s Division of Civil Right & Public Trust (DCRPT) at de.gov/publictrust.

³ *G. M. Leasing Corp. v. U.S.*, 429 U.S. 338, 352, 97 S. Ct. 619, 628, 50 L. Ed. 2d 530 (1977) (holding that the warrantless search of an office violated the Fourth Amendment and observing that “one governing principle, justified by history and by current experience, has consistently been followed: except in certain carefully defined classes of cases, a search of private property without proper consent is ‘unreasonable’ unless it has been authorized by a valid search warrant.” (quoting *Camara v. Municipal Court*, 387 U.S. 523, 528-529, (1967))).

⁴ *See, Lee v. Immigration & Naturalization Serv.*, 590 F.2d 497, 499–500 (3d Cir. 1979) (In construing the Immigration and Nationality Act, “courts have held that INS officers are limited by the fourth amendment in exercising the powers conferred upon them by Congress.”); *see also Yoc-Us v. Attorney Gen. United States*, 932 F.3d 98, 108 (3d Cir. 2019) (noting that “the INS has its own comprehensive scheme for deterring Fourth Amendment violations by its officers.”); and *Plyler v. Doe*, 457 U.S. 202, 212, (1982) (in discussing the 14th Amendment, explaining that constitutional provisions referring to “persons” and not “citizens” are “universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality”) (internal citations and quotation omitted, emphasis in original).

⁵ *See, e.g.*, Congressional Research Service, *Immigration Arrests in the Interior of the United States*,” (2021), <https://crsreports.congress.gov/product/pdf/LSB/LSB10362> (citing *Payton v. New York*, 445 U.S. 573, 586 (1979) for the proposition that searches and seizures inside a home without a judicial warrant are presumptively invalid).



Office of New Americans DELAWARE

- The Division of Civil Rights and Public Trust's responsibilities include enforcement of Delaware laws protecting the individual rights and liberties of Delawareans, including but not limited to rights secured by the Delaware and United States constitutions.
- Delawareans wishing to file a complaint with the Division MUST fill out [this complaint form](#) (available at de.gov/dcrptcomplaint) and include all relevant information and contact information. The complaint form will automatically be sent to the Division of Civil Rights and Public Trust.

What if immigration officers want me to provide access to my business's documents and records?

- The Fourth Amendment to the U.S. Constitution protects a person's or business's private documents from unreasonable search and seizure.
- Requests for documents by immigration officers may implicate the constitutional rights of both the business itself and of persons whose confidential information is contained in the business's documents. Therefore, to access confidential information in most businesses' possession, immigration officers must have a warrant or order signed by judge or a lawfully issued subpoena.⁶
- Federal laws may affect what law enforcement must do to access certain organizations, such as schools or medical facilities.

What if immigration officers stop my organization's vehicle to enforce immigration law?

- People inside vehicles have a lesser expectation of privacy than in their homes or businesses. Immigration officers do not need a warrant to stop a vehicle when they have reasonable suspicion that federal crimes, including immigration offenses, have occurred.
- Race and ethnicity cannot be the sole basis of the officer's reasonable suspicion.
- If you are stopped when you are driving a car, a police or immigration officer may ask to see your driver's license or driving privilege card. You must provide your license to prove you are lawfully operating your car.⁷
- You have the right to remain silent and you do not have to answer questions about your immigration status.
- If you are a passenger, you may ask if you are free to leave. If the officer says yes, calmly do so.
- You can refuse to consent to a search if an officer or officer asks to look inside your car. However, an officer can search your car without your consent if the officer has reason to believe that your car contains evidence of a crime.

⁶ If you have questions about subpoena compliance, you should seek legal advice from an attorney.

⁷ 21 Del. C. § 2701.



**Office of
New Americans
DELAWARE**

If I am worried that someone has been detained by ICE, how can I find out more information?

- ICE's [Online Detainee Locator System](#) allows you anonymously check whether an individual is in ICE custody if you know the person's Alien number and country of origin, or by the detainee's name, birth date, and country of origin.
- You may also call the ICE Office of Enforcement and Removal Operations at (888) 351-4024.

This information is not intended as legal advice. Separate rules apply at checkpoints and when entering the U.S. (including at airports).



**Office of
New Americans
DELAWARE**

Resources for Additional Assistance:

- The [Delaware Office of Immigration Assistance](#) (a program of the Delaware Department of Justice) provides counseling services and assistance for residents of Delaware applying for citizenship and/or immigration benefits, establishes case files and follows up with federal agencies to determine status, and serves as the liaison between residents of Delaware and the U.S. Citizenship and Immigration Service.
 - Phone: (302) 577-8390
 - de.gov/immigration
- The National Immigration Law Center offers Know Your Rights guidance for those arrested or detained by immigration authorities and under the U.S. Constitution generally.
 - <https://www.nilc.org/resources/know-your-rights-what-to-do-if-arrested-detained-immigration/>
 - <https://www.nilc.org/resources/everyone-has-certain-basic-rights/>
- The Community Legal Aid Society of Delaware offers legal services to qualifying vulnerable Delawareans.
 - Wilmington Phone: (302) 575-0660 Email: clasincc@declasi.org
 - Dover Phone: (302) 674-8500
 - Georgetown Phone: (302) 856-0038
 - <https://www.declasi.org>
- La Esperanza Community Center (Southern Delaware), La Red Health Center (Southern Delaware), and the Latin American Community Center (Wilmington) are all local nonprofit resources supporting Delaware's Latino and immigrant communities.
 - La Esperanza: (302) 854-9262 Email: info@laesperanza.org
 - La Red: (302) 855-1233 <https://www.laredhealthcenter.org/>
 - LACC: (302) 655-7338 <https://www.thelatincenter.org/>
- HIAS offers legal services to refugees and those seeking asylum in the U.S.
 - Phone: (800) HIAS-714 Email: info@hias.org
- For a complete list of BIA (Board of Immigration Appeals) Non-Profit Recognized Organizations and Accredited Representatives in your area, visit: <https://www.justice.gov/eoir/recognized-organizations-and-accredited-representatives-roster-state-and-city>
- The Delaware Domestic Violence Coordinating Council offers guidance for immigrant victims of domestic violence, regardless of their legal status.
 - <https://dvcc.delaware.gov/committees/immigration-committee/>