

January 30, 2025

Lee H. Roberts
Chancellor
University of North Carolina at Chapel Hill
103 South Building
Chapel Hill, NC 27599
chancellor@unc.edu



Dear Chancellor Roberts:

We write to urge the University of North Carolina at Chapel Hill (“UNC-Chapel Hill”) to respect and defend the rights of immigrant students, including their right to privacy.

UNC-Chapel Hill is the nation’s first public university, serving North Carolina, the United States, and the world through teaching, research, and public service.¹ UNC-Chapel Hill’s mission is to serve as a center for research, scholarship, and creativity and to teach a vibrant community of undergraduate, graduate, and professional students to become the next generation of leaders²—a diverse community that includes, and will continue to include, immigrant students, faculty, and staff. We insist that UNC-Chapel Hill honor its commitment to serve all students from a wide range of backgrounds and perspectives. This commitment means working with students, faculty and staff to navigate the rapid and frequently cruel changes to immigration policy pursued by the new presidential administration. It means ensuring that your immigrant students know that they are valued and supported in a climate of anti-immigrant extremism.

In light of heightened concerns regarding the U.S. Immigration and Customs Enforcement (“ICE”) and U.S. Customs and Border Protection (“CBP”) rescission of the longstanding “sensitive locations” policy that limited immigration enforcement at schools, immigrant students, faculty, and staff deserve and require your support and protection.³ Indeed, university leaders around the nation,

¹ *Mission and Values*, University of North Carolina at Chapel Hill, <https://www.unc.edu/about/mission/>, (last visited Jan. 30, 2025).

² *Id.*

³ U.S. Dep’t of Homeland Security, *Guidelines for Enforcement Actions in or Near Protected Areas* (Oct. 27, 2021),

recognizing the traumatic and divisive impact that raids and other enforcement actions would have on their campuses, have reassured their community members that they will decline to voluntarily cooperate with ICE enforcement efforts.⁴

Unfortunately, earlier this week, you stated that the university will comply with ICE requests for assistance to carry out raids and other enforcement actions. You clarified that you will be seeking legal counsel related to this matter, and indicated that you sympathize with the concerns of UNC-Chapel Hill's international students.



A decision to prioritize voluntary cooperation with ICE over protecting the well-being of students, staff, and faculty is deeply troubling, and exposes the university to legal risk. As detailed in this letter, broad compliance by UNC-Chapel Hill with ICE or CBP requests for student information will likely violate FERPA and Title VI of the Civil Rights Act.

We urge you to reconsider your position on voluntary cooperation with ICE, advise faculty and staff on best practices to protect student information and students themselves, and reassure UNC-Chapel Hill's immigrant community members of your support.

https://www.dhs.gov/sites/default/files/publications/21_1027_opa_guidelines-enforcement-actions-in-near-protected-areas.pdf.

⁴ University of California, *University of California Reaffirms Statement of Principles in Support of Undocumented Members of the UC Community* (Jan. 22, 2025), <https://undoc.universityofcalifornia.edu/files/uc-principles-in-support-of-undocumented-members-of-the-uc-community.pdf>; Northern Illinois University, *If U.S. Immigration and Customs Enforcement (ICE) Comes to Campus* (January 22, 2025) <https://www.niu.edu/undocumented/education-and-training/ice.shtml>; Chuck O'Donnell, *Rutgers' Holloway Urges Students, Faculty Members to Call RUPD If They See ICE Activity*, TAPinto (Jan. 27, 2025), <https://www.tapinto.net/towns/new-brunswick/sections/rutgers-university/articles/rutgers-holloway-urges-students-faculty-members-to-call-rupd-if-they-see-ice-activity#:~:text=%E2%80%9CRutgers%20is%20committed%20to%20ensuring%20that%20any.become%20aware%20of%20any%20activity%20on%20campus.%E2%80%9D>.



North Carolina

I. Immigrants contribute to the United States, North Carolina, and UNC-Chapel Hill.

As of June 2024, there were approximately 408,000 undocumented students enrolled in United States institutions of higher education.⁵ About 71% of all undocumented students arrived in the United States before the age of 17.⁶ Higher education in the United States benefits from the participation of immigrant students.⁷ Through education, immigrants have an overwhelmingly positive impact on this nation: they advance the economy through innovation and entrepreneurship and fill critical needs in numerous sectors like healthcare and technology. They contribute to the intellectual and academic life of American universities, elevate American art, music, and literature, and generally contribute more in taxes than they receive in government services.⁸

Immigrants make up 11.1 percent of North Carolina's labor force and support the state's economy in many ways.⁹ They account for 14.4 percent of entrepreneurs, 17.2 percent of STEM workers, and 7.8 percent of nurses in the state.¹⁰ As neighbors, business owners, taxpayers, and workers, immigrants are an integral part of North Carolina's diverse and thriving communities and make extensive contributions that benefit all.¹¹

⁵ Presidents' Alliance On Higher Education and Immigration, *Undocumented Students in U.S. Higher Education*, 1 (June 2024), https://www.higheredimmigrationportal.org/wp-content/uploads/2024/07/Undocumented-Students-in-Higher-Education.FINAL_-1.pdf.

⁶ *Id.*

⁷ *North Carolina*, Higher Ed Immigration Portal, <https://www.higheredimmigrationportal.org/state/north-carolina/>, (last visited Jan. 30, 2025).

⁸ Steven Hubbard, *Immigrants Contribute Billions to Federal and State Taxes Each Year*, Immigration Impact (April 15, 2024), <https://immigrationimpact.com/2024/04/15/immigrants-contribute-billions-federal-state-taxes/>.

⁹ *Immigrants in North Carolina*, American Immigration Council, <https://map.americanimmigrationcouncil.org/locations/north-carolina/#>, (last visited Jan. 30, 2025).

¹⁰ *Id.*

¹¹ *Id.*

Nearly 150,000 North Carolinians are undocumented, college-aged, young adults.¹² There are about 20,000 first-generation immigrant students who attend colleges or universities in North Carolina.¹³ Given state policies that bar access to in-state tuition or state financial aid for undocumented students, including DACA recipients, it is abundantly clear that undocumented students and DACA recipients financially contribute to your university every year through their tuition payments and day-to-day spending. The immigrant students on your campus also enrich the entire student body by sharing ideas, culture, perspective, and innovation in and out of the classroom.



By failing to protect the immigrant students on your campus, you are at risk of undermining your recruitment efforts and losing the trust of the entire student body. While your university encourages undocumented and DACA recipients to apply,¹⁴ UNC's announced submission to ICE enforcement actions sends a very different message. Many of these prospective students will be deterred from applying to or attending your university out of fear. The same may apply to U.S. citizen children of immigrants and lawfully present immigrants, as many of these students come from mixed-status homes and would fear exposing family members to risk.

II. Under FERPA, you are required to protect the privacy rights of your immigrant students.

Your statements indicate that UNC-Chapel Hill intends “to comply with any requests from law enforcement” regarding student information.¹⁵ We urge you to reconsider your approach, as such compliance could violate federal law.

¹² *What Drives Us*, UndocuCarolina, <https://undocucarolina.unc.edu/about/what-drives-us/#:~:text=For%20more%20than%20a%20quarter,part%20of%20mixed%20Dstatus%20families>, (last visited Jan. 30, 2025).

¹³ *Id.*

¹⁴ *Admissions*, UndocuCarolina, <https://undocucarolina.unc.edu/applying/admissions/>, (last visited Jan. 30, 2025).

¹⁵ Korie Dean, *UNC-Chapel Hill will 'comply' if ICE seeks students on campus, chancellor says*, News & Observer (Jan. 24, 2025),



UNC-Chapel Hill is responsible for ensuring the integrity and the confidentiality of student records. The Family Educational Rights and Privacy Act (FERPA) requires you to protect the confidentiality of personally identifiable student information by adhering to rules about its release.¹⁶ FERPA requires federally funded colleges and universities to define the information that will be designated as “directory information” which can be subject to release without a student’s prior written consent.¹⁷ UNC-Chapel Hill has designated the following as directory information: the student’s name, addresses, telephone number, email address, **date/place of birth**, major field of study, class (e.g., sophomore, senior), enrollment status, person identification number (PID), among other information.¹⁸ Under FERPA the school is required to inform students of their right to object to information being designated as disclosable directory information.¹⁹ Releasing directory information to immigration officers, if public notice conditions are not met, will violate FERPA.²⁰

There is a common misconception that FERPA requires colleges and universities to release student information. It does not. Unless a law enforcement officer has a valid court order or *judicial* subpoena, you cannot release personally identifiable information without the student's permission and you are not required to provide information that UNC-Chapel Hill considers “directory information,” to law enforcement.²¹ Administrative warrants, which are commonly used by ICE, or mere requests, are not a substitute for judicially authorized warrants or subpoenas. ICE administrative subpoenas are not enforceable on their own, absent a separate judicial order or legal

<https://www.newsobserver.com/news/local/education/article299119765.html>

¹⁶ 20 U.S.C. § 1232g(b)(1)(A); 34 C.F.R. pt. 99.

¹⁷ 34 C.F.R. § 99.1; 34 CFR § 99.31(a)(11).

¹⁸ *FERPA Guidance*, UNC University Registrar, <https://registrar.unc.edu/ferpa-guide/#:~:text=FERPA%20provides%20the%20university%20the,the%20student%20entered%20the%20University>, (last visited Jan. 30, 2025).

¹⁹ See 20 U.S.C. § 1232g(e).

²⁰ 34 C.F.R. § 99.37; See also, 20 U.S.C. § 1232g(a)(5)(b).

²¹ See 20 U.S.C. § 1232g(b)(2)(B), (b)(1)(J).

proceeding to enforce the subpoena.²² Any subpoena presented by immigration agents should be reviewed carefully by legal counsel before any information is produced. Further, a reasonable effort must be made to alert students to the subpoena before information is produced.²³

It is imperative that you inform students of their rights under FERPA and decline to voluntarily disclose their private information to law enforcement. Protecting your students is quite simple: if you are not legally required to disclose the information, then don't.



III. UNC-Chapel Hill must abide by the Fourteenth Amendment and Title VI of the Civil Rights Act.

In addition, you must abide by the Fourteenth Amendment's guarantee of equal protection²⁴ and Title VI of the Civil Rights Act, which prohibits discrimination by recipients of Federal financial assistance on the basis of "race, color, or national origin."²⁵ Title VI specifically prohibits schools from "utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin."²⁶

By automatically fulfilling immigration law enforcement officers' requests for information about student, staff, or faculty or by granting ICE campus access for enforcement activities, you may be participating in a method of administration that discriminates against students based on national origin or that substantially impairs their ability to participate equally in university programming—both of which are illegal under Title

²² See National Immigration Law Center, *Warrants and Subpoenas: What to Look Out For and How to Respond*, 4-6 (Sept. 2020), www.nilc.org/wp-content/uploads/2020/09/Warrants-Subpoenas-Facts-1.pdf.

²³ See 34 C.F.R. § 99.31(a)(9)(ii).

²⁴ See U.S. Const. amend. XIV, § 1.

²⁵ 42 U.S.C. § 2000d.

²⁶ 28 C.F.R. § 42.104(b)(2); 34 C.F.R. § 100.3(b)(2).

VI. And by collaborating with ICE, UNC-Chapel Hill is at special risk of participating in violations of the Title VI and the Fourteenth Amendment to the extent that ICE's actions target or disparately impact community members based on their race, religion, or national origin.

The United States was founded by immigrants and cannot endure and prosper without their rich contributions. No other nation has as large an immigrant population as does the United States.²⁷ UNC-Chapel Hill has greatly benefited from the melting pot of this country and the contributions of immigrant students, staff, and faculty.

UNC-Chapel Hill has produced excellent leaders in society who have greatly contributed to the growth and success of North Carolina; excellent leaders who also include members of the immigrant community. We urge you to advocate for and protect the privacy and well-being of all university community members, regardless of their national origin or immigration status.

Sincerely,

Michele Delgado
Staff Attorney
mdelgado@acluofnc.org

Jaclyn Maffetore
Senior Staff Attorney
jmaffetore@acluofnc.org

Kristi Graunke
Legal Director
kgraunke@acluofnc.org

²⁷ S. Galan, *Countries with the largest immigrant population worldwide in 2020*, Statista (Jan. 23, 2025), <https://www.statista.com/statistics/1378084/migrants-stock-world-highest-population/#:~:text=The%20United%20States%20hosted%2C%20by,16%20and%2013%20million%2C%20respectively.>

