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1111 Franklin Street
Oakland, CA 94607

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February 17, 2023

CHANCELLORS
ACADEMIC COUNCIL CHAIR COCHRAN
LABORATORY DIRECTOR WITHERELL
ANR VICE PRESIDENT HUMISTON

**Re: Systemwide Review of Proposed Presidential Policy
Responding to Immigration Enforcement Issues Involving Patients
in UC Health Facilities**

Dear Colleagues:

Enclosed for systemwide review are proposed revisions to Presidential Policy Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities.

This policy was initially implemented as an interim policy and is now recommended to move out of interim status.

The policy complies with the October 1, 2018, California Attorney General's Office published immigration enforcement-related guidance and model policies for health facilities, entitled "Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California's Healthcare Facilities in Responding to Immigration Issues." The CA AG's guidance complies with the California Values Act (Cal. Gov. Code § 7284 et seq.), which went into effect on January 1, 2018.

As a result of the consultative process and to address experiences during the interim implementation, language to clarify custody related requirements has been included in this update. Additional updates were made to address concerns for private and public designated areas within a facility and to require an immigration policy resource for all shifts.

Systemwide Review

Systemwide review is a public review distributed to the Chancellors, the Chair of the Academic Council, the Director of the Lawrence Berkeley National Laboratory, and the Vice President of Agriculture and Natural Resources requesting that they inform the general University community,

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especially affected employees, about policy proposals. Systemwide review also includes a mandatory, 90-day full Senate review.

Employees should be afforded the opportunity to review and comment on the draft policy. Attached is a Model Communication which may be used to inform non-exclusively represented employees about these proposals. The Labor Relations Office at the Office of the President is responsible for informing the bargaining units representing union membership about policy proposals.

We would appreciate receiving your comments no later than **May 18, 2023**. Please submit your comments to brandi.schmitt@ucop.edu. If you have any questions, please contact Anne Foster at anne.foster@ucop.edu.

On behalf of Dr. Byington,

DocuSigned by:
Zoanne Nelson
5E28ADEC38B8456...

Zoanne Nelson
Associate Vice President, UC Health

Enclosures:

- 1) Draft Presidential Policy Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities (clean copy)
- 2) Draft Presidential Policy Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities (tracked-changes copy)
- 3) Model Communication

cc: President Drake

Provost and Executive Vice President Newman
Executive Vice Chancellors/Provosts
Executive Vice President Byington
Executive Vice President and Chief Operating Officer Nava
Senior Vice President Bustamante
Vice Provost Haynes
Vice President and Vice Provost Gullatt
Vice President and Chief Clinical Strategy Officer Foster
Vice President Lloyd
Vice President Maldonado
Vice Provosts/Vice Chancellors of Academic Affairs/Personnel
Associate Vice Provost Lee
Associate Vice President Matella
Deputy General Counsel Nosowsky
Deputy General Counsel Woodall

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Assistant Vice Provosts/Vice Chancellors for Academic Personnel
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Director Sykes
Associate Director Dicaprio
Associate Director Nguyen
Associate Director Weston-Dawkes
Associate Director Woolston
Assistant Director LaBriola
Manager Crosson
Administrative Manager Garcia
Manager Garza
Analyst Durrin
Administrative Officer Babbitt
Policy Advisory Committee



Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities

Responsible Officer:	EVP – UC Health
Responsible Office:	HS – UC Health
Issuance Date:	TBD
Effective Date:	TBD
Last Review Date:	January 17, 2023
Scope:	This Policy applies to University of California Medical Centers and Hospitals, including University-owned Children’s Hospitals.

Contact:	Anne Foster
Title:	Chief Clinical Officer, UC Health
Email:	Anne.Foster@ucop.edu
Phone:	(510) 987-0306

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I. POLICY SUMMARY

The California Values Act (Cal. Gov. Code § [7284](#) et seq.), which went into effect on January 1, 2018, requires that the California Attorney General “publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law” at several kinds of public institutions and facilities, including “health facilities operated by the state or a political subdivision of the state.” The Act further requires that all such health facilities implement these policies or equivalent policies, and encourages “all other organizations and entities that provide services related to physical or mental health and wellness,” including the University of California, to adopt the model policies.

To satisfy this mandate, on October 1, 2018, the California Attorney General’s Office published immigration enforcement-related guidance and model policies for health facilities, entitled “[Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California’s Healthcare Facilities in Responding to Immigration Issues](#).” The model policies address information sharing, responding to immigration enforcement presence at health facilities, providing information on patient rights (including immigrant patient rights) and remedies, monitoring and receiving visitors, and notifying minor patients’ parents of immigration law enforcement actions.

Given the California Values Act’s requirements that the model policies limit immigration enforcement assistance “to the fullest extent possible consistent with federal and state law” and all State- and local government-operated health facilities implement them, as well as UC Health’s commitment to creating the safest environment possible for all patients to obtain medical care regardless of their immigration status, UC Health has chosen to adopt the Attorney General’s model policies as set forth in this Policy while maintaining flexibility for UC health facilities to implement them consistent with local conditions.

In addition to the model policies, the Attorney General’s guidance “[p]rovides policy recommendations that comply with federal and state laws, and that may mitigate disruptions from immigration enforcement actions at healthcare facilities[.]” Health facilities may evaluate whether or not to adopt the Attorney General’s policy recommendations in their locally-established implementation policies and procedures. This Policy does not require adoption of these recommendations.

II. DEFINITIONS

The following definitions apply to this Policy:

Health facility: University of California Medical Centers and Hospitals, including University-owned Children’s Hospitals (e.g., UC Davis Medical Center and Children’s Hospital, UC Irvine Medical Center, Ronald Reagan UCLA Medical Center, Resnick Neuropsychiatric Hospital at UCLA, UCLA Mattel Children’s Hospital, UC San Diego Medical Center, UCSF Medical Center, UCSF Benioff Children’s Hospital San Francisco, UCSF Langley Porter Psychiatric Hospital and Clinics).

Immigration enforcement: Includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.

Judicial warrant: A warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

Patient: An individual who receives health care services as a patient at a University health facility (as defined above).

III. POLICY TEXT

A. Designated Health Facility Administrator

Health facilities shall designate an administrator and designees that are available during every shift to handle immigration issues, ensuring staff members and relevant volunteers are adequately dealing with immigration enforcement inquiries and requests involving patients, dissemination of information to patients, and compliance with internal procedures.

B. Responding to Information Requests from Immigration Enforcement Officers

1. Health facilities must implement policies that are protective of patient information, under which health facility staff members and volunteers disclose patient information only when required or expressly authorized to do so by all applicable laws.
2. Health facilities and their designated health facility administrators must consult legal counsel to help determine when and to what extent they are required to comply with administrative requests involving protected health information.
3. For responding to information requests issued by immigration enforcement officers, health facilities must develop a verification procedure to determine and document:
 - a. The specific agency the requester is from;
 - b. Whether the requester has law enforcement power;
 - c. The specific types of protected health information the requester seeks; and

- d. The reason the requester wants the information.
4. Health facilities must establish policies that provide guidance on determining whether a document labeled “subpoena,” “warrant,” or “summons” has been issued by a court or judicial officer. Often such requests are handled by the health facility’s privacy officer or medical records department, to assure that information is disclosed appropriately under all applicable laws. If possible, health facilities should consult with legal counsel each time on such matters.
5. If health facility is required under applicable laws to disclose patient information to immigration enforcement authorities without the patient’s authorization in compliance with a court order or judicial warrant, then the health facility must document the disclosure in compliance with facility policies and procedures. Such documentation must include information that supported the decision to disclose the information. Disclosures to law enforcement are subject to the accounting-of-disclosures requirement under the Health Insurance Portability and Accountability Act Privacy Rule.

C. Responding to Immigration Enforcement Officers’ Physical Presence at Health Facilities

Health facilities shall develop procedures for responding to an officer present at the health facility for immigration enforcement purposes, including the following:

1. As soon as possible, health facility personnel shall notify the designated health facility administrator and legal counsel of any request (including subpoenas, petitions, complaints, warrants, or court orders) by an immigration enforcement officer to access a health facility or a patient, or any request for the review of health facility documents.
2. Advise the officer that before proceeding with the officer’s request, health facility personnel must first notify and receive direction from the designated health facility administrator and legal counsel. Decline to answer questions posed by the officer. Advise the officer that the health facility is not obstructing the officer’s process and direct him or her to speak to the designated health facility administrator and/or legal counsel.
3. Ask to see, and make a copy of or note, the officer’s credentials (name and badge number or identification card). Also ask for and copy or note the telephone number of the officer’s supervisor.
4. Ask the officer to explain the purpose of the officer’s visit, and note the response.
5. Ask the officer to produce any documentation that authorizes health facility access.

6. Make copies of all documents provided by the officer.
7. State that the health facility does not consent to entry of the health facility or portions thereof.
8. Without expressing consent, respond according to the requirements of the officer's documentation and consistent with all applicable laws. For example, unless otherwise provided by laws applying to patient information at the health facility, if the officer has:
 - a. A U.S. Immigration and Customs Enforcement administrative "warrant": Immediate compliance is not required. Inform the officer that the health facility cannot respond to the warrant until after it has been reviewed by a designated health facility administrator and legal counsel. Provide a copy of the warrant to the designated health facility administrator and legal counsel as soon as possible.
 - b. A subpoena for production of documents or other evidence: Immediate compliance is not required. Inform the officer that the health facility cannot respond to the subpoena until after it has been reviewed by a designated health facility administrator and legal counsel. Give a copy of the subpoena to the designated health facility administrator and legal counsel as soon as possible.
 - c. A federal judicial warrant (either a search-and-seizure warrant or an arrest warrant): Prompt compliance usually is required, but staff should consult with the designated health facility administrator and legal counsel before responding.
 - d. A notice to appear: This document is not directed at the health facility. Health facility staff is under no obligation to deliver or facilitate service of this document to the person named in the document. If a copy of the document is received, give it to the designated health facility administrator and legal counsel as soon as possible.
 - e. A request to notify officers upon release of a patient: When no document is provided to support a request, compliance is not required. Health facility staff should notify the health facility administrator and legal counsel.

A more detailed discussion of the different types of documents requesting information can be found in the California Attorney General's model policies and guidance, "[Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California's Healthcare Facilities in Responding to Immigration Issues](#)" (pp. 18-20). Samples of administrative warrants, judicial warrants, subpoenas, and a notice to appear form can be found in appendices to the Attorney General's model policies and guidance.

9. Document the officer's actions while in health facility premises in as much detail as possible, but without interfering with the officer's movements.
10. If the officer orders staff to provide immediate access to facilities, health facility staff should comply with the officer's order and also immediately contact a designated health facility administrator and legal counsel. Personnel also should not attempt to physically interfere with the officer, even if the officer appears to be acting without consent or appears to be exceeding the purported authority given by a warrant or other document. If an officer enters the premises without authority, health facility personnel shall simply document the officer's actions while at the facility.
11. Health facility staff must complete an incident report that includes the information gathered as described above and the officer's statements and actions.

D. Information on Patient Rights and Responsibilities

1. Health facilities should post and issue general information policies telling patients of their privacy rights and remedies.
 - a. Health facilities should give assurances that they will not release information to third parties for immigration enforcement purposes, except as required or expressly authorized by law or court order.
 - b. Health facilities should provide a comprehensive list of privacy protections, under both federal law and California law (including a patient's right of action for disclosures in violation of the Confidentiality of Medical Information Act).
2. Health facilities should post information guides regarding immigrant patient rights, including the right to remain silent. While immigration enforcement at health facilities is limited by U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection "sensitive-locations" policies, immigration agents may enter a public area of a health facility without a warrant or the facility's consent and may question any person present (with that person's consent).

E. Monitoring and Receiving Visitors

1. Each health facility may identify the areas of the facility that are subject to restricted access and use mapping, signage, and physical or technical safeguards, as applicable, to consistently apply restrictions.

2. No outsider—including immigration enforcement officers—is permitted to access restricted areas without having registered with the health facility. If there are no exigent circumstances necessitating immediate action (e.g., enforcement actions involving national security or terrorism matters or the immediate arrest or pursuit of a dangerous felon, terrorist suspect, or others who present an imminent danger to public safety), and if the visitor does not possess a judicial warrant or court order that provides a basis for the visit, the visitor must provide the following information to health facility’s designee:
 - a. Name, address, occupation;
 - b. Age, if less than 21 years;
 - c. Purpose in entering the health facility; and
 - d. Proof of identity.

(Try to obtain this information even from a visitor or officer with a court order.)
3. Health facilities shall post signs at their entrances to notify outsiders of the hours of operation and requirements for registration.
4. Health facility personnel shall report entry by immigration enforcement officers to the designated health facility administrator.

F. Notification of Immigration Law Enforcement Actions Involving Minor Patients

1. Health facility personnel must receive consent from a minor patient’s parent or guardian (provided the child is not legally regarded as his or her own personal representative of his or her health information) before a minor patient can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the health facility, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.
2. Health facility personnel shall immediately notify the minor patient’s parent or guardian if a law enforcement officer requests or gains access to the patient for immigration enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

IV. COMPLIANCE / RESPONSIBILITIES

Health facilities are responsible for designating administrators to handle immigration issues. Designated health facility administrators are responsible for ensuring compliance with this Policy and locally established implementation policies and procedures.

V. PROCEDURES

Health facilities must adopt local policies and procedures addressing implementation of this Policy. All such policies and procedures must be consistent with this Policy and with local conditions and existing requirements applicable to the health facilities and health information. Health facilities should develop and post their local implementation policies and procedures and post this Policy, if at all possible in the languages commonly spoken in the local community, and make these policies accessible on their websites. Staff, including any relevant volunteers, should be well-trained in these policies and procedures.

VI. RELATED INFORMATION

- California Attorney General, Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California’s Healthcare Facilities in Responding to Immigration Issues (October 2018):
<https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/healthcare-guidance.pdf>
- California Values Act, Cal. Gov. Code § 7284 et seq. (especially §§ 7284.4 & 7284.8):
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=17.25.&article
- UCOP Office of the General Counsel, Frequently Asked Questions for University Employees About Possible Federal Immigration Enforcement Actions on University Property:
<https://www.universityofcalifornia.edu/sites/default/files/frequently-asked-questions-federal-immigration-enforcement-uc.pdf>
- University of California Statement of Principles in Support of Undocumented Members of the UC Community (see “UC MEDICAL FACILITIES”):
<https://www.universityofcalifornia.edu/sites/default/files/Statement-of-Principles-in-Support-of-Undocumented-Members-of-UC.pdf>

VII. FREQUENTLY ASKED QUESTIONS

Are the AG’s related policy recommendations required?

This policy complies with the AG’s model policies. UC Health facilities are encouraged to adopt the AG’s additional recommendations in their locally established policies and procedures including limiting the collection of immigration status/citizen status/national origin information to the patient only.

VIII. REVISION HISTORY

October 14, 2019: Issuance Date

This new interim policy was remediated to meet the Web Content Accessibility Guidelines (WCAG) 2.0.

December 9, 2020: reviewed and approved extending interim status through May 2021

New policy issued: [Date]

DRAFT



Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities – ~~INTERIM~~ Policy

Responsible Officer:	EVP – UC Health
Responsible Office:	HS – UC Health
Issuance Date:	TBD
Effective Date:	TBD
Last Review Date:	<u>January 17, 2023</u>
Scope:	This Policy applies to University of California Medical Centers and Hospitals, including University-owned Children’s Hospitals.

Contact:	Cathryn Nation <u>Anne Foster</u>
Title:	Vice President <u>Chief Clinical Officer</u> , UC Health Health Sciences
Email:	Cathryn.Nation@ucop.edu <u>Anne.Foster@ucop.edu</u>
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Judicial warrant: A warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

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3. Ask to see, and make a copy of or note, the officer’s credentials (name and badge number or identification card). Also ask for and copy or note the telephone number of the officer’s supervisor.
4. Ask the officer to explain the purpose of the officer’s visit, and note the response.
5. Ask the officer to produce any documentation that authorizes health facility access.

6. Make copies of all documents provided by the officer.
7. State that the health facility does not consent to entry of the health facility or portions thereof.
8. Without expressing consent, respond according to the requirements of the officer’s documentation and consistent with all applicable laws. For example, unless otherwise provided by laws applying to patient information at the health facility, if the officer has:
 - a. A U.S. Immigration and Customs Enforcement administrative “warrant”: Immediate compliance is not required. Inform the officer that the health facility cannot respond to the warrant until after it has been reviewed by a designated health facility administrator and legal counsel. Provide a copy of the warrant to the designated health facility administrator and legal counsel as soon as possible.
 - b. A subpoena for production of documents or other evidence: Immediate compliance is not required. Inform the officer that the health facility cannot respond to the subpoena until after it has been reviewed by a designated health facility administrator and legal counsel. Give a copy of the subpoena to the designated health facility administrator and legal counsel as soon as possible.
 - c. A federal judicial warrant (either a search-and-seizure warrant or an arrest warrant): Prompt compliance usually is required, but staff should consult with the designated health facility administrator and legal counsel before responding.
 - d. A notice to appear: This document is not directed at the health facility. Health facility staff is under no obligation to deliver or facilitate service of this document to the person named in the document. If a copy of the document is received, give it to the designated health facility administrator and legal counsel as soon as possible.
 - ~~d-e.~~ A request to notify officers upon release of a patient: When no document is provided to support a request, compliance is not required. Health facility staff should notify the health facility administrator and legal counsel.

A more detailed discussion of the different types of documents requesting information can be found in the California Attorney General’s model policies and guidance, “[Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California’s Healthcare Facilities in Responding to Immigration Issues](#)” (pp. 18-20). Samples of administrative

warrants, judicial warrants, subpoenas, and a notice to appear form can be found in appendices to the Attorney General's model policies and guidance.

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2. Health facilities should post information guides regarding immigrant patient rights, including the right to remain silent. While immigration enforcement at health facilities is limited by U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection "sensitive-locations" policies, immigration agents may enter a public area of a health facility without a warrant or the facility's consent and may question any person present (with that person's consent).

E. Monitoring and Receiving Visitors

1. Each health facility may ~~shall~~ identify the areas of the facility that ~~are~~ should be subject to restricted access and using mapping, signage, and physical or technical safeguards, as applicable, to consistently apply restrictions.

2. No outsider—~~which would include~~ immigration enforcement officers—~~is should be permitted to access restricted areas shall enter or remain on a health facility's grounds~~ without having registered with the health facility. If there are no exigent circumstances necessitating immediate action (e.g., enforcement actions involving national security or terrorism matters or the immediate arrest or pursuit of a dangerous felon, terrorist suspect, or others who present an imminent danger to public safety), and if the visitor does not possess a judicial warrant or court order that provides a basis for the visit, the visitor must provide the following information to health facility's designee:
 - a. Name, address, occupation;
 - b. Age, if less than 21 years;
 - c. Purpose in entering the health facility; and
 - d. Proof of identity.(Try to obtain this information even from a visitor or officer with a court order.)
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2. Health facility personnel shall immediately notify the minor patient's parent or guardian if a law enforcement officer requests or gains access to the patient for immigration enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

IV. COMPLIANCE / RESPONSIBILITIES

Health facilities are responsible for designating administrators to handle immigration issues. Designated health facility administrators are responsible for ensuring

compliance with this Policy and locally established implementation policies and procedures.

V. PROCEDURES

Health facilities must adopt local policies and procedures addressing implementation of this Policy. All such policies and procedures must be consistent with this Policy and with local conditions and existing requirements applicable to the health facilities and health information. Health facilities should develop and post their local implementation policies and procedures and post this Policy, if at all possible in the languages commonly spoken in the local community, and make these policies accessible on their websites. Staff, including any relevant volunteers, should be well-trained in these policies and procedures.

VI. RELATED INFORMATION

- California Attorney General, Promoting Safe and Secure Healthcare Access for All: Guidance and Model Policies to Assist California’s Healthcare Facilities in Responding to Immigration Issues (October 2018):
<https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/healthcare-guidance.pdf>
- California Values Act, Cal. Gov. Code § 7284 et seq. (especially §§ 7284.4 & 7284.8):
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=7.&title=1.&part=&chapter=17.25.&article
- UCOP Office of the General Counsel, Frequently Asked Questions for University Employees About Possible Federal Immigration Enforcement Actions on University Property:
<https://www.universityofcalifornia.edu/sites/default/files/frequently-asked-questions-federal-immigration-enforcement-uc.pdf>
- University of California Statement of Principles in Support of Undocumented Members of the UC Community (see “UC MEDICAL FACILITIES”):
<https://www.universityofcalifornia.edu/sites/default/files/Statement-of-Principles-in-Support-of-Undocumented-Members-of-UC.pdf>

VII. FREQUENTLY ASKED QUESTIONS

Are the AG’s related policy recommendations required? Not applicable. This policy complies with the AG’s model policies. UC Health facilities are encouraged to adopt the AG’s additional recommendations in their locally established policies and

procedures including limiting the collection of immigration status/citizen status/national origin information to the patient only.

IX.VIII. REVISION HISTORY

October 14, 2019: Issuance Date

This new interim policy was remediated to meet the Web Content Accessibility Guidelines (WCAG) 2.0.

December 9, 2020: reviewed and approved extending interim status through May 2021

New policy issued: **[Date]**

DRAFT

MODEL COMMUNICATION

The University of California Office of the President invites comments on a proposed Presidential Policy *Responding to Immigration Enforcement Issues Involving Patients in UC Health Facilities*. The policy is proposed to be revised and includes the following key issues:

- move policy from interim to regular status
- clarify custody related requirements
- address private and public designated areas within a health facility; and,
- require an immigration policy resource for coverage during all shifts

If you have any questions or if you wish to comment, please contact _____ at _____, no later than _____, 2023.