

Information for International Students Engaging in Political Action

I. Introduction

In conjunction with Occupy Wall Street protest actions are being organized all around New York City, and many international students have asked about the potential risks of participating in protest actions and the precautions that they should take when participating. We have put this information together to answer many of those concerns and to help you make an informed choice about participating in protest actions. Remember, *this is not legal advice and should not be substituted for the services of legal professionals.*

The U.S. Constitution protects the rights of anyone in the United States – citizens or foreign nationals (i.e. international students) – to free speech and freedom of assembly. “Speech” includes both vocal and written – paper or electronic – forms of communication. However, as an international student you face risks and concerns that US citizens who participate in political action do not face. *There is always a risk that accompanies participation in protest action*, but you can take measures to help reduce that risk.

II. State Organizations and Policies

There are a number of government organizations that manage immigration related matters; these matters include awarding of visas, enforcing immigration laws, and collecting information about immigrants living, studying, and working in the United States. You are probably already familiar with one or more of these organizations, but understanding the basics about all of them is important for understanding the possible consequences of participating in protest action and other visa related procedures.

1. United States Citizenship and Immigration Services (USCIS)

The USCIS is the organization in charge of managing the petition process for all types of visas, including the F-1 and J-1 visas. Petitions for visas are submitted to them, and the USCIS approves or denies those petitions. The USCIS also manages petitions for green cards and family visas.

2. Immigration and Customs Enforcement (ICE)

ICE is the investigating, policing and enforcing arm of the United States immigration services, handling matters within the country’s borders. Other activities performed by ICE are the auditing of business and universities to collect information about the immigration status of employees and students and the deportation of immigrants who have been ordered to leave the country. ICE does not administrate visas but enforces immigration related law.

3. The Department of Homeland Security (DHS)

The Department of Homeland Security is the department that supervises USCIS and ICE. In addition, DHS maintains a database of biometric data of immigrants (the photograph, retina scan, and fingerprints you gave when you entered the country), interrogates immigrants suspected of crimes, and scrutinizes the activity of immigrants. Another important fact to keep in mind is that immigrants from countries whose relationship with the United States is strained are likely to undergo more intense scrutiny than others.

4. Department of State (DOS)

DOS is the agency in charge of diplomatic foreign relations. The DOS, under John F. Kennedy, initiated the creation of the J-1 visa during the cold war which means that the visa is imbued with important political motivations.

5. New York Police Department (NYPD)

The NYPD is the agency in charge of policing and maintaining public order within the borders of the City of New York. Officers policing the protest actions around the Student Week of Action will most likely be employees of the NYPD.

6. CUNY Campus Security

CUNY employs a number of security personnel at all of its campuses. All campuses employ two types of security personnel: 1. Peace Officers, who have the authority to make arrests; 2. Security Assistants and Officers, who do not have the authority to make arrests.

7. Secure Communities

Secure Communities is an information database, maintained by ICE, of immigrants who have been detained in county jails. If local police participate in the program, they report the immigration status of detainees to ICE, and ICE has discretion as to what actions it will take after receiving this information. *Note:* New York State does not participate in Secure Communities and there are no reports that the NYPD in Manhattan has ever reported information to ICE. However, there is suspicion that the NYPD in Queens has reported to ICE in the past.

8. 287g

287g is a program that allows local jails to be used as immigration detention centers and ICE officers are present at local jails. New York State does not officially participate in 287g, and no ICE officials are posted at jails in Manhattan. However, there are immigration officials posted at Rikers Island who could inquire about immigrants if detained there.

III. Know Your Visa

Most international students at CUNY have one of two types of visas, J-1 and F-1. Both of these visas are non-immigrant visas which means that the federal government expects these persons to return to their country of origin at the end of their studies, unless they petition to have their immigration status changed. *Both of these visas require that students maintain their student status at the university.*

1. J-1 Visa

- the J-1 program is a student exchange program designed to build American foreign relations.
- It is facilitated by the Department of State who is supposed to monitor students.
- Fulbright scholars receive J-1 visas.
- [J-1 visa information \(from www.uscis.gov\)](http://www.uscis.gov)

1. F-1 Visa

- this is the primarily student visa given to student applicants to the university.
- [F-1 visa information \(from www.uscis.gov\)](http://www.uscis.gov)

VI. Types of Protest Actions

There are many different types of protest actions, including legal actions and those that are against the law. You should know ahead of time what types of actions are being organized at a political protest because different activities involve different types of risk.

- Marches are legal as long as participants obey the rules and ordinances regulating them which require marches not to obstruct movement on public walkways or to obstruct traffic on streets.
- Rallies are legal and allowed if a permit is obtained by the rally organizers. Non-permitted rallies may be legally disbursed and/or ended by the police if they feel the need to do so.
- Acts of Civil Disobedience involve intentionally breaking laws or disobeying police orders in order to make a political statement. If you are not participating in civil disobedience, be sure to distinguish yourself from those who are.

VII. Rules, Policies, Sanctions and Protest Actions

When participating in protest actions it is important to know that the City University of New York and the NYPD have rules which may be violated by participants, but both do not necessarily coordinate with each other. For example, if a rule established by CUNY is violated, the university will implement its own punitive process and may not notify police.

1. University Policies

CUNY has instituted a number of policies to “maintain public order” and to “regulate the conduct” of people at the university. These are the rules relevant to students participating in protest actions specifically at the university. All of the rules can be found online: [CUNY Maintenance of Public Order](#).

- “A member of the academic community shall not intentionally obstruct and/or forcibly prevent other from the exercise of their rights. Nor shall he or she interfere with the institution's educational processes or facilities, or the rights of those who wish to avail themselves of any of the institution's instructional, personal, administrative, recreational, and community services.”
- “Unauthorized occupancy of University/college facilities or blocking access to or from such areas is prohibited.”
- “Each member of the academic community or an invited guest has the right to advocate his or her position without having to fear abuse—physical, verbal, or otherwise—from others supporting conflicting points of view. Members of the academic community and other persons on the college grounds shall not use language or take actions reasonably likely to provoke or encourage physical violence by demonstrators, those demonstrated against, or spectators.”
- “Action may be taken against any and all persons who have no legitimate reason for their presence on any campus within the University/college, or whose presence on any such campus obstructs and/or forcibly prevents others from the exercise of their rights, or whose presence interferes with the institution's educational processes or facilities, or the rights of those who wish to avail

themselves of any of the institution's instructional, personal, administrative, recreational, and community services.”

2. University Penalties and Sanctions

- If students are found to be in violation of campus policy (while participating in protest actions or for any other reason) the university could engage its officially stated, internal sanction process.
- Students may be subject to the following sanctions: (defined in the [Appendix](#)) admonition, warning, censure, disciplinary probation, restitution, suspension, expulsions, ejection, and/or arrest by the civil authorities.
 - The University will not necessarily report these sanction to immigration officials, but it is possible that they could.
 - For international students, the most punitive sanction would be revocation of student status which would also mean that their visa is revoked.

3. New York City Regulations

The City of New York maintains rules to regulate protest actions.

- Protest actions are supposed to obtain a permit from the city government which would entail notifying the city government and obtaining consent for the specific details of protest actions (routes, rally locations, etc.), and the police will maintain a presence at the protest.
- Not all protests obtain permits, and if no permit is obtained participants are required to obey the laws which regulate New York’s public space. These include not obstructing or prohibiting movement on sidewalks and not blocking the entrance to buildings.
- As long as protesters remain on the sidewalk, keep moving, and do not prevent anyone else from moving freely, they are not in violation of any regulations.

3. New York City Penalties and Sanctions

Protesters who are in violation of these rules are supposed to first be warned by police officers before the police take any action. (This usually happens, but not always). If participants do not obey police warnings, they can be arrested.

VIII. Risks and Possible Repercussions (Worst Case Scenarios)

Participation in protest actions always entails some amount of risk, especially if during the action the individual breaks a university or public law, policy, or code. For international students these risks are different than the risks for US citizens. (There are precautions which can be taken to minimize risk which are addressed in the following section). Here is a list of potential risks that international students face while participating in protest action:

1. Sanction by the university

- The worst case scenario could be revocation of a students status which would place the student’s visa in jeopardy.

2. Public Sanction

- This could include tickets, fines, and arrest.
- Most people who have been arrested while participating in Occupy Wall Street have been issued a citation for Disorderly Conduct. Disorderly Conduct is

considered as a violation of city code and is not considered as a criminal offense. Punishment usually entails a court appearance and a small fine.

3. Risks to future immigration status

- It is possible that public sanctions could affect future attempts to adjust immigration status such as obtaining a new visa or green card. Applicants are required to notify immigration officials if they have been arrested while in the United States. If so, each applicant will be asked to issue an addendum explaining the circumstance.
- Minor violations will not necessarily inhibit applicants from receiving visas or green cards, but there is a possibility that they could. Immigration officials exercise a certain amount of discretion when making these decisions, and it is largely up to the official who processes the application to decide.
- Minor violations may be expunged from your record, but that would require the consultation of a lawyer and the details are beyond the scope of this document.

IX. Precautionary Actions to Minimize Your Risk at Protests

1. During marches, stay on sidewalks and designated public walkways and keep moving so that you do not obstruct movement.
2. Before participating, obtain emergency contact numbers and write these numbers of your forearm of shirt sleeves. If you are arrested, your phone and any paper may be taken from you. One useful number to have is for the National Lawyers Guild (212-679-6018).
 - a. Make sure that your emergency contacts know your *full name and date of birth* because that is the information used to track detainees in New York City facilities. If you are detained and call someone like the National Lawyers Guild, make sure to give them this information.
 - b. Even if your emergency contacts are not legal personnel, you should have someone you trust so that s/he can keep track of your location, advocate for you if you are arrested, and obtain legal counsel if necessary.
3. Obey the requests or orders of police officers. If you decide to risk arrest as part of the action by disobeying rules or orders, understand the possible consequences. Sitting down or linking arms with other protesters is considered as resisting resist. The legal and passive way to resist being arrested is to go completely limp and allow the cops to carry you to the police vehicle.
4. Know if protest organizers have taken precautionary measures which could include the following:
 - a. Peace Keepers
 - Peace keepers are clearly marked individuals and protest participants whose responsibility it is to make sure that the protest goes according to plan which could include keeping groups together, within established boundaries, and moving. These people help communicate orders from the police to protest participants. Peace keepers can also identify and differentiate group members who are acting risking arrest to the police so that bystanders are not misconstrued as individuals risking arrest.

- b. Police Liaison
 - Many protest actions, especially those at which people are planning to risk arrest, have a designated police liaison. This person is the main communication link between the protesters and the police and works to mediate the responses of police and protesters.
 - c. Legal Counsel
 - Pro-bono legal counsel may have been arranged in advance of a protest. If so, make sure to obtain relevant contact information.
5. Be mindful of your surroundings
- a. Always be aware of what is going on around you during a protest action. If you feel that things are becoming out of hand and you are worried that the police are going to take action, peacefully leave the area and move to a safer location. This could be another location within the protest or somewhere away from the action altogether.

VIII. If Arrested...

1. Stay calm.
2. Do not give the police more information than is necessary. You can give them your name and address and allow yourself to be fingerprinted and photographed for ID purposes. You are not required to tell the police your immigration status or country of origin. Remember that it is legal for the police to lie in order to obtain information. Do not speak about the conditions which led to your arrest with the police.
3. Call the National Lawyers Guild (212-679-6018) and/or any other emergency contacts. Make sure to give them your full name and date of birth.

IX. Conclusion

We hope that the information presented here has provided the knowledge necessary for you to make informed decisions about participating in protest actions. This is not legal advice and should not be consulted in lieu of a professional legal advisor. This information also may not be exhaustive and you should consult multiple sources before choosing to participate in protest actions and/or deciding to what extent you will participate.