



Protecting Your Workplace: An Essential Guidance on Immigration Enforcement



Introduction

Immigration enforcement in the workplace has become a critical concern for employers, HR professionals, and legal advocates across the United States. With increased activity by U.S. Immigration and Customs Enforcement (ICE) and evolving federal and state policies, it is essential for employers to understand their legal rights, responsibilities, and best practices for responding to enforcement actions. This factsheet serves to provide practical advice for navigating workplace encounters with immigration authorities.



Know Your Rights

- All individuals in the U.S., regardless of immigration status, are protected by constitutional rights, including the right to privacy, the right to remain silent, and the right to consult with an attorney.
- Employers have the right to deny ICE entry to non-public (private) areas of the workplace unless ICE presents a valid judicial warrant signed by a judge.
- ICE agents may enter public areas (e.g., lobbies, customer dining areas) without a warrant or permission but cannot access private areas without consent or a judicial warrant.
- Workers have the right to remain silent and to request an attorney if questioned by ICE. They are not required to answer questions about immigration status, country of origin, or provide documents unless compelled by a valid warrant.
- Employers are not required to assist ICE in identifying, sorting, or providing information about employees unless presented with a valid judicial warrant.

Types of Immigration Enforcement Actions

FORM I-9 AUDITS

A Form I-9 Audit is a work eligibility check. Form I-9 is a simple government form that every employer in the United States must use to confirm that a person they hire is legally allowed to work. It's required for all employees, U.S. citizens and non-citizens alike. ICE reviews an employer's I-9 forms to verify compliance with employment eligibility laws during a raid. It is accompanied by a Notice of Inspection (NOI) which is required to conduct a legal search.

ICE RAIDS (OR WORKSITE RAIDS)

ICE Raids are unannounced entries by ICE agents, often with local police to investigate or detain workers. A judicial warrant is required for private areas only.

DETENTION OF SPECIFIC WORKERS

ICE seeks to question, detain, or arrest a named individual at the workplace. This required an administrative or judicial warrant.

DOCUMENT REQUESTS

ICE requests employment records, payroll, or other documents. It is accompanied by Subpoena, NOI, or judicial warrants.

SUBPOENA/NOTICE TO APPEAR

This is a written request for information or to appear before an immigration judge.

How to Respond to ICE Visits

Before ICE Arrives:

- Develop a written response plan tailored to your workplace, including designated roles for staff and management.
- Train all employees, especially receptionists, security, and managers—on how to respond to ICE, including not granting access to private areas without proper authority.
- Clearly mark private areas with signs such as “Private” or “Authorized Personnel Only” and restrict access accordingly.
- Conduct regular internal audits of I-9 forms and ensure compliance with retention and completion requirements.
- Provide “Know Your Rights” training and materials in multiple languages to all staff.

When ICE Arrives: Immediate Response

- **Stay calm and professional;** do not panic or allow staff to flee, as this may escalate the situation.
- **Designate a point person (e.g., HR manager or legal counsel)** to interact with ICE agents; all other employees should refer agents to this person.
- **Request identification from ICE agents and record names, badge numbers, and the purpose of the visit.**

- Ask to see any warrant or official documentation. Carefully review whether it is a judicial warrant (signed by a judge) or an administrative warrant (signed by an ICE official).
- Do not grant access to private areas unless presented with a valid judicial warrant. If only an administrative warrant is presented, politely refuse entry to non-public spaces.
- Do not provide documents or information immediately; for I-9 audits, you have three business days to respond to a Notice of Inspection.
- Document everything: Take notes, record interactions (where legal), and preserve surveillance footage if available.
- Do not obstruct or physically interfere with ICE agents, even if you object to their actions. Voice objections verbally and document them for legal review.

After ICE Leaves:

- Debrief with legal counsel and management to review the incident and determine next steps.
- Notify the union if your workforce is unionized, as required by collective bargaining agreements.
- Support affected workers by providing information on legal resources, paid leave, and community support networks.
- Prepare an incident report detailing what occurred, who was involved, and any items or documents seized.

Handling Detentions, Questioning and Arrests at the Workplace

- Workers have the right to remain silent and to request an attorney if questioned or detained by ICE.
- Employers are not required to identify, sort, or provide information about employees unless compelled by a valid judicial warrant.
- Do not assist ICE in locating or bringing employees to agents unless specifically required by a judicial warrant.
- Do not allow ICE to question employees in private areas without a judicial warrant or consent.
- If an employee is detained or arrested, ask ICE where the employee is being taken to assist the worker's family and legal counsel.
- Document all interactions and detentions for legal review and potential challenges.



Form I-9 Compliance and Audits

- Form I-9 must be completed for all new employees to verify identity and work authorization.
- Keep I-9 forms for three years after the date of hire or one year after employment ends, whichever is later.
- Do not require employees to complete I-9 more than once unless their work authorization is expiring or there is a valid legal reason.
- Do not keep copies of employees' identification or work authorization documents unless required by company policy or law.
- Conduct regular internal audits to ensure I-9 forms are complete, accurate, and up to date.



During an ICE I-9 audit:

- ICE must provide a Notice of Inspection (NOI); employers have three business days to respond.
- Consult legal counsel before submitting documents or answering questions.
- Allow employees to have a coworker or union representative present during discussions about the audit.
- If ICE identifies unauthorized workers, employers have 10 days to provide valid work authorization or must terminate employment.
- Notify affected workers and, if applicable, the union.

Document Requests and Audits

- ICE may request documents through a Notice of Inspection, subpoena, or judicial warrant.
- Employers have three business days to respond to a Notice of Inspection for I-9 forms.
- Do not provide documents or access to records immediately; verify the request and consult legal counsel first.
- Review the scope of any warrant or subpoena; only provide documents specifically requested and within the legal authority of the request.
- Maintain copies of all documents submitted to ICE and keep detailed records of communications and actions taken.
- Do not destroy, alter, or conceal documents in response to an audit or investigation; such actions can result in severe penalties.

Practical Tips

- Develop and rehearse a written response plan for ICE actions.
- Train all staff on rights, procedures, and emergency contacts.
- Mark and secure private areas; restrict access appropriately.
- Conduct regular I-9 audits and maintain organized records.
- Consult legal counsel before responding to ICE or law enforcement.
- Document all interactions and preserve evidence.
- Support affected workers with leave, pay, and legal resources.
- Communicate clearly and consistently with staff and the public.
- Review and update policies regularly to reflect current laws and best practices.
- Distribute multilingual “Know Your Rights” materials to all employees.



Immigration enforcement can create legal, operational, and ethical challenges for employers. By knowing your rights and responsibilities, preparing ahead of time, and responding calmly and lawfully, you can protect your business, support employees, and stay compliant with federal and state requirements. Use this factsheet to guide your policies, training, and response plans. For additional support, consult our law firm and stay updated on changing laws and best practices.

Stay prepared. Stay compliant. Protect your workplace and your people



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