

# WORKPLACE IMMIGRATION ENFORCEMENT



MAGGIO KATTAR

Responding to Immigration  
Enforcement at the Workplace

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# Understanding Common Immigration Actions

## **I-9 Audits:**

ICE may inspect your compliance with Form I-9 requirements, which verify employee identity and work authorization.

Employers must retain I-9 forms for 3 years after hiring or 1 year after termination, whichever is later.

Noncompliance may result in fines, penalties, or restrictions on hiring unauthorized workers.

## **ICE Raids:**

These are unannounced worksite investigations to enforce immigration laws. Agents may detain employees or question others.

ICE agents often wear uniforms marked “Police” or “Federal Agent” and may carry firearms. Local law enforcement may accompany them.

## **Targeted Detentions:**

ICE may visit your workplace looking for specific individuals. Agents may also attempt to question or detain others on-site.

Immigration actions, such as audits or raids, can be disruptive for your business and employees.

As an employer, you have rights and responsibilities to protect your workers and comply with the law. This guide provides actionable steps to prepare for and respond to immigration enforcement actions.

# Steps to Prepare Your Workplace

## Develop a Written Response Plan

- Collaborate with legal counsel and community networks to create a plan tailored to your business.
- Include clear protocols for handling ICE interactions, such as who will speak to agents and how to verify warrants and subpoenas and to determine next steps.
- Conduct practice drills to ensure staff are familiar with the plan.

## Train Staff to Handle ICE Encounters

- Instruct employees not to permit ICE agents to enter non-public areas without explicit permission from your employer's legal team or other designated contact. If ICE brings a document they claim to be a warrant or subpoena, send this to your designated contact immediately for review.
- Provide scripted responses for employees, such as:
  - "Please wait. I have been instructed to inform my legal team before allowing you to enter. It should only take a moment."
  - "This is a private area. I am not authorized to let you enter. I've been instructed that you may only enter with a judicial warrant or judicial subpoena. Please provide this and I will have my legal team quickly review and confirm."
- Ensure employees understand the importance of remaining calm and refraining from answering ICE's questions.

## Educate Staff About Rights

- Employers and employees have the right to remain silent and to seek legal counsel.
- Arrange "Know Your Rights" training sessions with legal or community organizations. Pay employees for their time in these trainings to encourage participation.

# Employer Rights and Responsibilities

If approached by ICE (Immigration and Customs Enforcement), you have rights and responsibilities.

## What can I do if ICE is at my workplace?

**You do not have to allow ICE agents to access non-public areas of your premises without a judicial warrant or judicial subpoena.**

- Politely ask to see their identification and the warrant or subpoena.
- A judicial warrant or subpoena must be signed by a judge and will state "Honorable," "Judge," "Justice," or "Magistrate" in the signature.
- **If ICE does not have a judicial warrant or judicial subpoena:**
  - Inform them that they are not permitted to access non-public areas without authorization.
  - If they present a document claiming to be a warrant or subpoena, note that some types of warrants or subpoenas are not the same as *judicial* warrants or *judicial* subpoenas and may not be enforceable on their own, in which case you may not be required to comply.
  - Notify your legal department immediately.
- **If ICE presents a judicial warrant or judicial subpoena:**
  - Review the warrant carefully to ensure it is specific to your premises and the requested records, areas, or individuals.
  - Contact your legal team before allowing access or providing documents.

## What can I do if ICE enters non-public areas without a judicial warrant, judicial subpoena, or permission?

- **Communicate clearly:**
  - Politely but firmly state, "I do not consent to your presence in this area. Please leave."
  - Notify your legal team immediately.
- **For employees:**
  - Employees have the right to remain silent and do not have to provide identification.
  - Employees must not provide false information or documents to ICE.
  - If ICE agents attempt to search non-public areas without a warrant, you may state, "I do not consent to this search."

# Employer Rights and Responsibilities

## What can I do if ICE requests I-9 Forms or employment records?

- **Notice of Inspection (NOI):**
  - ICE may issue a Notice of Inspection for Form I-9s and related documents.
  - You have three business days to comply with the NOI.
  - Notify your legal department as soon as you receive the notice.
- **Without a notice:**
  - ICE does not have the right to take possession of I-9 Forms or records without presenting an NOI, a judicial subpoena, or a judicial warrant.
- **If ICE presents a judicial warrant or judicial subpoena to seize records:**
  - Verify that the judicial warrant or judicial subpoena specifically includes I-9 Forms or other employment documents.
  - Contact your legal team immediately.
- **Be prepared by performing internal audits to ensure your Form I-9 records are complete and correct and train staff on proper I-9 procedure.**

# Employer Rights and Responsibilities

## What can I do if ICE seeks to question employees?

- **Without a judicial warrant or judicial subpoena:**
  - ICE agents cannot compel employees to answer questions or provide identification.
  - Employees may politely decline to answer and state, "I want to remain silent."
- **With a judicial warrant or judicial subpoena:**
  - The warrant must specify the names of the individuals ICE is seeking.
  - Notify your legal team and assist only as required by the terms of the warrant.

## Harboring and Employer Responsibilities

- **Employers and staff must not:**
  - Knowingly conceal, harbor, or shield unauthorized individuals from detection.
  - Provide false information or documentation to ICE.
- **Criminal penalties for "harboring":**
  - Under Section 274 of the Immigration and Nationality Act (INA), harboring unauthorized individuals can result in fines and imprisonment.

# Know the Limits of ICE Authority

- **ICE cannot:**

- Enter non-public areas of your premises without a judicial warrant or subpoena
- Question employees or seize records without proper documentation.

- **Employers have a right to:**

- Restrict access to non-public areas without a warrant or subpoena
- Decline to answer questions without legal counsel present.



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