

ICE in the Workplace: 2026 Update

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Summary

Recent news about U.S. Immigration and Customs Enforcement (ICE) in several parts of the United States, including major events in Minneapolis, have encouraged U.S. businesses and organizations to review their compliance and enforcement protocols. Attorneys in Ballard Spahr's Immigration, Labor and Employment, and White Collar Defense and Investigation Groups have published guidance throughout the year regarding compliance. This publication reflects best practices in consideration of the latest enforcement activities.

ICE has been empowered to take aggressive actions to enforce immigration laws. These developments have left employers, particularly those in industries like education, manufacturing, health care, and childcare, uncertain about how to handle ICE interactions effectively and in compliance with the law.

Given the administration's increased immigration enforcement and news stories documenting expanded ICE raids, we are providing this alert so employers can understand their rights and responsibilities if ICE agents come to one of your facilities.

Types of Immigration Visits

I-9 Audits

An I-9 audit occurs when ICE reviews a company's Employment Eligibility Verification Forms (Form I-9), which requires employers to verify that their workers are legally authorized to work in the U.S.

As part of an I-9 audit, ICE may conduct an on-site inspection to verify compliance. The first step in this process occurs when ICE issues a Notice of Inspection (NOI), which informs an employer that they must produce the I-9 forms of their employees within three business days. ICE may issue a NOI by appearing in person with no advance notice.

Site Visits

Site visits are part of ICE's routine enforcement, often connected to visa compliance programs like H-1B or L-1. These visits may be conducted to verify that employers are complying with the terms of employment outlined in visa status petitions for sponsored employees.

Immigration Raids

ICE agents may conduct an immigration raid where agents seek to apprehend individuals they believe are violating federal immigration law. These actions may be more aggressive and ICE agents may demand to speak to a particular individual or search the premises. ICE may include other federal agencies, like the Alcohol, Tobacco, and Firearms or IRS, in both their investigations and in raids.

Rights of Access

Public Areas

If ICE agents come to one of your facilities, they have the right to enter any public areas on the property. ICE agents may access any portion of the property that an ordinary customer, or member of the public, would be allowed to enter.

Private Areas

ICE agents do not have an automatic right to enter nonpublic areas of your facilities. Whether ICE agents must be granted access to these private areas depends on whether agents are able to produce a judicial warrant that grants them access to otherwise prohibited areas. To clarify what constitutes a public vs. private area, it is advisable to clearly label entrances and access points as "private areas" if members of the public are not allowed to access them freely without permission.

Judicial Warrants

If ICE agents produce a warrant that has been signed by a judge, employees must grant the agents access to the specific areas listed in the warrant. This means that ICE has been granted access to search particular areas or search for particular persons within the facility.

This does not mean that ICE agents have unlimited access to an entire facility, unless the signed warrant specifies as such. ICE agents may only search the nonpublic areas that are specified in the warrant. If ICE agents attempt to enter nonpublic areas in excess of what is allowed in the warrant, your organization's lawyers and leadership should have clear protocols on how to proceed.

Administrative Warrants

If ICE agents produce an "administrative warrant,"—a document that may contain the word "warrant" but lacks a judge's approval—your lawyers and leadership should consider all legal and practical factors. Employees should always be courteous and should never hinder a valid investigation. An administrative warrant is a document produced by federal immigration enforcement authorities that directs law enforcement officers to arrest or detain a particular individual that is suspected of violating U.S. immigration laws. In contrast to a judicial warrant, an administrative warrant does not give ICE agents the authority to enter nonpublic spaces to carry out the arrest. Recent federal guidance calls into question whether an administrative warrant, by itself, imposes any legal duties to comply with the demands of ICE agents. An administrative warrant may resemble the appearance of a judicial warrant, particularly to someone who lacks legal training. If staff are unsure whether a warrant produced by ICE agents is a judicial warrant or an administrative warrant, they should contact legal counsel immediately.

Steps for Organizations to Take Before ICE Arrives

Designate Nonpublic Areas: Clearly indicate what areas of the property are traditionally open to the public and what areas of the property are protected access points that would require unique permission or identification in order to enter.

Designate a Point of Contact: Have at least one individual in a supervisory capacity who is intimately familiar with these guidelines and who will be available in the event of an ICE visit. This point of contact should know to immediately contact legal counsel and have that contact information readily available.

Train Staff at Points of Entry: Inform staff that are likely to encounter ICE of their rights and obligations and ensure they know who they should contact in the event of a raid or site visit.

Evaluate I-9 Compliance: Ensure that you are using the current version of Form I-9 and confirm that all of your workers are eligible for their positions. Consider an internal audit with counsel. Internal audits demonstrate good faith compliance in the event of an I-9 government audit.

Review and Organize Visa Status Documentation for Sponsored Employees: Ensure that documentation related to work visas, job duties, wages, and employment terms is well-organized and readily available for review during a site visit. Train front-line staff to notify the appropriate internal contact and legal counsel if ICE arrives.

Steps for Organizations to Take When ICE Arrives

Review any ICE Documents: Designated staff should review any warrants or documentation that ICE presents. They should accompany agents to any nonpublic areas and ensure that ICE agents search only those areas they are authorized to search per the terms of the search warrant.

Document Interactions: Staff members should document any pertinent information that ICE presents and collect agent names and badge numbers.

Be Calm, Composed, and Cooperative: Staff members who interact with ICE should do their best to remain calm and express a cooperative attitude without divulging the status or personal/health information of another person. A visit from law enforcement authorities is often a stressful experience for all involved. Remember your rights and have a plan of action in place if this occurs.

Call Us: Ballard Spahr has attorneys with decades of experience in enforcement actions and immigration raids ready to assist in

case of a visit from law enforcement.

This is an update to the alert published on January 29, 2025, "Preparing for ICE Visits in Light of Executive Orders."

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