

Employer Action Plan:

Managing Your Workforce in the Event of an Immigration and Customs Enforcement (ICE) Visit/Interaction



To be used by managerial staff; not for use by non-supervisory employees.

IMMEDIATE ACTION ITEMS:

- Create an internal escalation protocol:
- Employees should be aware of the appropriate chain of command and whom to contact in the event ICE appears on company property.
- If Point of Contact is at the premises, they should come to meet the ICE agent; if not, they should be put on phone.
- If ICE appears on the company premises, here are some immediate action items to follow:
 - Stay calm and remain professional.
 - Confirm the identity of the law enforcement official. Ask for a business card or other form of identification such as a badge of the lead ICE agent to confirm their identity.
 - **Contact legal counsel immediately** and meet with the ICE agent in a public space. Ask the agent the purpose of the visit and request a copy of any legal documentation they have brought (Notice of Inspection, Warrant, Subpoena, etc.), if any.
 - **NOTE:** Do not provide legal advice to individual employees. If needed, employees should seek their own independent counsel.

YOUR RIGHTS AS AN EMPLOYER:

- Employers have rights when ICE appears at a private business. **Unless they have a judicial warrant or subpoena, ICE agents do not have a right to:**
 - Enter non-public areas (ensure all non-public areas are clearly marked as “private”).
- Anyone – including ICE agents – can enter public areas (reception/lobby, dining area in a restaurant, parking lot, etc.) of your business during operating hours without prior permission.

WHAT HAPPENS IF ICE AGENTS COME TO YOUR LOCATION:

- First- **Stay calm!**
 - Respectfully advise the agent(s) that you will need them to wait in a public area until you can contact a supervisor or manager that can provide assistance.
 - For example, an employee, addressed by ICE (contact employee) may say “Thank you for the information. Please remain outside/in the lobby until I can locate my supervisor/manager who will be able to address your questions. I do not have the authority or permission to grant you access to the property.”

- Ask the ICE agents to wait and have the employee immediately contact the next person in line on the internal escalation list and provide them with the name of the lead ICE agent and a copy of any documentation shared by the agent.
- The designated contact on the escalation list should gather the following information regarding the ICE encounter:
 - Location
 - Date/Time
 - Purpose of visit
 - Copy of ID/badge number for lead ICE agent
 - Copy of any documentation presented by ICE
- Key reminders to employees who encounter ICE on company property:
 - Do NOT ask anyone to run to the exits.
 - Do NOT attempt to obstruct any ICE agents or law enforcement.
 - Do NOT become confrontational.
 - Do NOT become aggressive.
 - Do NOT become violent or you will be arrested in the same way you would if you acted like this in front of a regular police officer/law enforcement. ICE **is** law enforcement.
 - Do NOT obstruct an agent but voice your objection if accessing private space without consent.
 - **NOTE:** You may want to consider creating company policy on whether to allow employees to record ICE while on company property (there is a safety concern).
- The designated team member on the escalation list should review any documentation provided by ICE. And if ICE does not possess a judicial warrant, the team member should not provide consent to any search, seizure, or interview request **until ICE returns with a judicial warrant or subpoena compelling or authorizing such a search or seizure.**
 - A judicial warrant is one signed by a judge that says “U.S. District Court” or a State Court at the top.
 - A judicial warrant is valid only for a specific date, time, place, and for a specific purpose. As such, they should be read carefully to ensure ICE does not go beyond the authority granted in the warrant.
 - **NOTE:** Employer should decide what is the company policy regarding whether consent will be granted for ICE to enter the non-public areas of the workplace. Note California law prohibits DHS’ entering non-public areas of the workplace without a valid judicial warrant.
- **Everyone has the right to remain silent. You do not have to speak to the ICE agent(s).**
 - If you or any employees choose to speak to ICE or volunteer any information, you should remain truthful and non-confrontational.
- Remind employees to have their own emergency preparedness plan, including arrangements for childcare and financial matters in case of local, regional, or national emergencies.
- Acknowledge the situation and if your health plan provides counseling benefits, remind them of their access to counseling services or other employee assistance programs if needed.

POST-ICE ENCOUNTER PROTOCOL:

As soon as ICE has left the premises, you should contact legal counsel, if you have not already, and create a memorandum of the encounter. Details should include the following:

- Name, title, agency, badge number of lead agent.
- How many ICE agents were present (inside and outside)?
- How were the agents dressed? How were they armed?
- Did the agents make you or your co-worker(s) believe you could not move or leave?
- Did the agents mistreat anyone? If yes, how?
- What questions did the agents ask and what were your responses?
- What documentation did they present?
 - Did they provide you a copy?
 - Determine what type of investigation is being conducted: Notice of Inspection, Arrest Warrant, or Search Warrant?
 - Did you retain a copy of the warrant if presented? (a copy is normally provided)
- What information/documents did ICE take or make copies of, if any?
 - Create a list of documents taken by ICE.
- What information/documents did the client provide to ICE, if any?
 - Create a list of documents provided to ICE.
- With whom did ICE want to speak? Was there a particular employee(s) they requested to speak to?
 - If yes, did they have a judicial or administrative warrant?
 - If yes, did the employer provide access to the employee?
 - If yes, did they apprehend the employee or release them after speaking with them?
- Did you object to any requests by ICE?
 - If yes, what was the request by ICE and end result?
- Were there any altercations with the ICE agents?
 - If yes, detail the altercation and identify which employees were involved.
 - If yes, were there any harm or injury to any employees?

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