

# RECOMMENDATIONS FOR EMPLOYERS REGARDING ICE VISITS AND RAIDS

On Jan. 20 and 21, 2025, President Donald Trump signed various executive orders on immigration. These executive orders address birthright citizenship, expanded use of expedited removal, suspension of the United States Refugee Admissions Program (USRAP), asylum, border security, “enhanced vetting” for visa applicants and those already in the country seeking relief, and the United States-Mexico-Canada Agreement (USCMA), as well as other U.S. trade agreements.

While litigation is pending challenging many of these executive orders, employers should be cognizant of the implications of these executive orders, including an increase in federal immigration enforcement throughout the country. Immigration and Customs Enforcement (ICE) is conducting inspections, raids and visits without notice. The Department of Homeland Security (DHS) has also terminated its “sensitive location” policy, which now permits ICE to conduct raids and arrest individuals at places of worship, schools and hospitals.

Below is a general guide on the rights of employers and how employers can protect themselves and their workforce during ICE visits and raids.

## PUBLIC VS. PRIVATE AREAS OF A BUSINESS

ICE may enter *public* areas of a business without permission. This includes, for example, the parking lot, waiting room, store aisles, public seating area, lobby, public restrooms, and anywhere accessible to the general public. ICE has the right to approach employees and business visitors who are in public areas of the business, however these employees and visitors are not required to respond to ICE. In fact, employees should expressly state their right to remain silent and refer ICE to the manager.

ICE may not enter a *private* area of the business without the employer’s permission or a **judicial** warrant, which is signed by a federal or state court judge and identifies the employer and business address. Private areas include, but are not limited to, behind a register, supply closets, stock rooms, behind clerk counters, employee break rooms, private offices, the private kitchen or dishwashing room of a restaurant, and any other place that is not accessible to the general public. It is recommended that businesses mark private areas of the

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building with a sign “Private” or “Authorized Personnel Only” and keep doors leading to areas not accessible to the public closed and locked.

An employer may demand that ICE present a judicial warrant signed by a state or federal judge before granting ICE permission to access to private areas. ICE may try to present an administrative warrant, which is different from a judicial warrant. An administrative warrant does *not* permit ICE agents to enter *private* areas without the employer’s express permission. Administrative warrants are issued by DHS and printed on Forms I-200 or I-205. An employer is not required to respond to an administrative warrant, even if the administrative warrant identifies an employee who is currently working on the premises.

### **GENERAL RECOMMENDATIONS**

The employer should designate a manager to serve as a point of contact with ICE. All employees who work in public areas should be instructed not to talk with ICE and to refer ICE to the designated manager. ICE may conduct a raid at any time so the employer should designate a manager for every shift. The designated managers should handle the ICE raid in a professional manner. The manager should speak with the employer’s lawyer before providing ICE with any information, signing any documents provided by an ICE agent, or granting ICE access to private areas.

If an employee is detained, the manager should ask the ICE agents where the employee is being taken so the manager can notify the employee’s family. All persons approached or detained by ICE have the right to remain silent and consult an attorney. An employee volunteering to ICE evidence of work authorization, lawful permanent resident status (green card), receipt notices, or hearing notices does not guarantee protection from detention. Employees should consult their individual immigration counsel on how to best proceed if approached by ICE.

Should you require any assistance in preparation for or following an ICE visit or raid or assistance with an I-9 inspection or audit, please contact your regular AT attorney or one of the listed authors.