

## A GUIDE FOR EMPLOYERS

# Knowing Your Rights in the Workplace

**This guide offers general information and does not constitute legal advice. Employers and noncitizens should contact a licensed immigration attorney with questions about their specific circumstances.**

Immigration enforcement has been a consistent part of federal policy across administrations. While priorities may shift, worksite visits, I-9 audits, and penalties for immigration law violations are tools that both Democratic and Republican administrations have used. Employers should be prepared for enforcement actions regardless of the current political landscape.

Taking proactive steps to prepare can help reduce confusion and anxiety among company leaders and employees. Even if your workplace is never affected, having a plan in place ensures that everyone knows what to expect and how to respond.

Preparing does not mean trying to predict or adjust to potential policy changes. Instead, it means consulting legal experts, complying with existing requirements, and making sure your workers understand their rights and responsibilities. The guidance below offers practical steps to help protect your business and employees.

Know Your Rights (KYR) information is essential for everyone, regardless of immigration status. All individuals have rights under the Constitution, including during immigration enforcement actions. If law enforcement officers come to your workplace to conduct immigration enforcement actions in a nonpublic space, they must have a judicial warrant to apprehend people or access any private areas. It is your prerogative to ensure that a judicial warrant is present before granting agents any access to the nonpublic areas of your workplace. More details on this are below.

# Preparing for Worksite Immigration Enforcement

Here's what you should know to prepare for potential immigration enforcement at your workplace.

**1. Without a warrant, Immigration and Customs Enforcement (ICE) agents can enter only public spaces.** Even with the [rescission](#) of the "Protected Areas" policy, previously known as the "Sensitive Locations," without a judicial warrant, ICE agents can enter only public spaces, like lobbies, waiting rooms, and parking lots. ICE agents may not enter private spaces of worksites or other spaces without employee permission or a *valid judicial warrant signed by a judge*.

- **NOTE:** Immigration enforcement agents may attempt to gain access to private areas of a worksite by presenting an "administrative warrant" issued by a federal agency such as the Department of Homeland Security. Unlike a valid judicial warrant signed by a federal judge, an administrative warrant does not authorize officers to enter private areas. A warrant signed by an immigration judge is not a judicial warrant.
- Read more information on administrative and judicial warrants [here](#).
- If ICE shows up with a judicial warrant for the arrest of an individual at your workplace, you do not necessarily have to grant them access to private sites (unless that is covered in the warrant). Instead, you can escort the individual out to a public area to minimize ICE's engagement with other employees.

**2. Employees have the right to remain silent.** Regardless of what areas of a worksite ICE agents gain access to, employees are not required to answer officers' questions. If any employee does choose to respond to officers, they should *not* lie.

- Some states [require an individual](#) to provide their name if asked by law enforcement. But even in those states, individuals are not required to answer any additional questions.

**3. Have a response plan if immigration enforcement officers show up at your worksite.**

A company-wide plan for worksite immigration enforcement can protect companies and employees and ensure that routine I-9 audits go smoothly. This plan can look very similar to the steps you would take if any law enforcement officer came to your worksite.

- Designate a specific staff member to liaise with immigration enforcement, ideally an attorney. Remember, without a judicial warrant, officers cannot access the private spaces of your worksite unless invited in. They can wait for your designated staff or attorney to arrive before they proceed with their visit if necessary.
- Make sure staff who are likely to greet officers know where to direct them, whether that be to a waiting room or to the designated staff member responsible for liaising with immigration enforcement. Ensure that greeting staff know whether or not they should wait with the officers.
- Educate staff likely to greet immigration enforcement officers about [the differences between a judicial and administrative warrant](#).

**4. Audit your employee files. You don't need to keep more employee information than is required by law.** Do not note in their files or maintain lists of employees who are DACA recipients, TPS holders, or parolees (or of their families if your benefits cover family members). If you do not keep this information, it will be impossible for you to hand it over to an immigration enforcement officer.

- [Resources on I-9 requirements are available here.](#)

**5. Share KYR Information with employees.** Educate employees on what their rights are if they encounter immigration enforcement. This can help employees stay calm and safe if immigration enforcement visits your worksite.

- Leave KYR pamphlets and other materials accessible to your employees or share [links to resources](#). Consider hosting KYR info sessions with an attorney.
- Print or direct your employees to "[red cards](#)," wallet-sized cards with KYR information that individuals can use if they encounter immigration enforcement.

Sharing KYR information, maintaining the private areas of your workplace, and holding law enforcement officers accountable for providing judicial warrants are all actions that are within your rights and business interests.