

Immigration Enforcement Memo – Key Points for IFPA Members

Increased Immigration Enforcement Under President Trump

- President Donald Trump's executive orders target undocumented individuals, mainly criminals, but collateral arrests are occurring due to sanctuary city non-cooperation.
- U.S. Immigration and Customs Enforcement (ICE) is no longer restricted from making arrests at schools, hospitals, or places of worship.
- Initial enforcement efforts will focus on large metropolitan areas.

ICE & CBP Worksite Visits – What Employers Need to Know

- ICE has broad authority to conduct unannounced visits at most workplaces, with or without a warrant.
- U.S. Customs and Border Protection (CBP) may also conduct worksite visits, but primarily within 100 miles of a land border or 50 miles of a water border, usually related to human and drug trafficking investigations. If CBP appears at a worksite it is likely with a warrant.
- If ICE arrives with a warrant, confirm it is a judicial warrant signed by a federal or state judge (not an immigration order).
- Without a warrant, ICE can only enter public areas of a business; private workspaces should be clearly marked to restrict access.

Preparing Employees & Records for an ICE Visit

- Employers should establish a plan for handling ICE visits, including designating a point person to interact with agents.
- Workers' rights during an ICE encounter:
 - They do not have to answer questions and have the right to remain silent.
 - They should not run, as this gives ICE probable cause to pursue and make arrests.

- Workers do not have to provide documentation, but if they choose to, it must be accurate and up to date.
- Employees on visas should keep copies of their legal status documents (e.g., passport or visa photo on their phone).
- Employers should train workers on how to handle an ICE encounter, similar to a fire drill.

I-9 Compliance & SSA No-Match Letters

- I-9 forms must be maintained for three years after hiring or one year after separation, whichever is later.
- Employers should conduct internal audits to ensure all I-9s are accurate and meet DHS guidelines.
- Social Security Administration (SSA) "No-Match" Letters:
 - Sent when an employee's Social Security number does not match government records.
 - Employers should verify information internally first and allow employees time to correct errors.
 - Employers should not take immediate disciplinary action, as mismatches do not necessarily indicate unauthorized work status.

Handling an ICE Raid

1. If ICE arrives, remain calm and request to see a warrant.
2. Only grant access if the warrant is signed by a federal or state judge.
 - Administrative warrants from DHS are not valid for entry—ICE can be asked to leave.
3. If ICE presents a valid warrant, ensure agents only enter areas specified in the document.
4. Employers should document everything:
 - Number of agents present

- Whether they were armed or in uniform
 - If employees were mistreated or prevented from leaving
 - Any documents or property seized
5. If ICE seizes critical business records, employers should request copies or work with agents to minimize disruption.
 6. Designate a representative to accompany each ICE agent and take notes or videos.

What to Do If an Employee Is Arrested

- Ask ICE where the worker is being taken to inform legal counsel and the worker's family.
- Ensure the employee is paid any outstanding wages before their departure.

Post-Raid Steps

- After ICE leaves, their findings will be reviewed, and legal proceedings could take months.
- Employers should review the raid details and assess any violations that may have occurred.

Workers' Rights in an ICE Encounter

- Workers do not have to answer questions or provide documentation unless they voluntarily choose to do so.
- If questioned, they should remain silent and consult an attorney before responding.
- If ICE comes to a worker's home, they should:
 - Not open the door unless shown a judicial warrant.
 - Ask ICE to slide the warrant under the door or show it through a window.
 - Remain silent and decline to speak if the warrant is not valid.

What to Do If ICE Comes to the Workplace

- Workers should stay calm, remain silent, and not run.
- They have the right to seek legal representation before answering any questions.
- If ICE orders workers to separate into groups based on immigration status, workers can stand still and refuse to comply.

Key Takeaways for Employers

- **Train employees** on their rights and how to handle ICE encounters.
- **Review and update I-9 records** to ensure compliance.
- **Verify SSA no-match letters properly** and allow employees to correct any errors.
- **Have a response plan** in place, including a **designated ICE point person**.
- **Ensure ICE only accesses areas authorized by a judicial warrant**.
- **Document everything** in case of a legal challenge.