

# Employer Tips For Responding To ICE In The Workplace

By **Jennifer Martinez and Brenda Quintanilla** (June 26, 2025)

As media outlets across the country report a significant rise in immigration enforcement activities under President Donald Trump's new administration, it is imperative that employers establish policies and protocols to respond to immigration enforcement activities potentially occurring at the workplace.

This article offers a legal background on employers' rights and duties, and practical guidance for interacting with U.S. Immigration and Customs Enforcement.

Since Trump took office on Jan. 20, ICE has detained more than 100,000 people across the U.S. through various enforcement activities.[1] There have been reports that these detentions even include U.S. citizens or other individuals with lawful status.[2]

Increasingly, the administration appears to be targeting cities throughout California, most visibly including Los Angeles and San Francisco. ICE raids and other enforcement activities have sparked protests statewide, prompting Trump to deploy the National Guard and the U.S. Marine Corps to Los Angeles.[3]

Breaking with prior precedent, even during the first Trump administration, ICE has conducted raids in places that were once thought of as off-limits, such as courthouses, churches, schools, medical facilities and places of employment outside traditionally immigrant-heavy sectors.

Given this new landscape for immigration enforcement, employers in California, and nationwide, are struggling to balance their obligation to comply with applicable federal and state laws, and their desire to provide a safe workplace for their employees.

## **What is ICE's authority to enter or search workplaces?**

Law enforcement, including ICE, can generally access public areas of the workplace, even for private sector employers. Notably, the public versus nonpublic distinction is determined not just by applicable law, but also by actual usage.

A public area is simply any area that is used, or held out for the use, of the public, whether it is owned and operated by public or private interests.

Nonpublic spaces in the workplace are those that are restricted from general entry — these are the areas that ICE must have proper legal authority to enter.

There is some overlap with the distinction between private and public property, but the issues are not identical.

For example, in an office setting, if a lobby or reception area can be entered off the street by any member of the public, then it may be considered a public space, meaning that ICE can enter the area without a warrant.



Jennifer Martinez



Brenda Quintanilla

On the other hand, a lobby or reception area on the 25th floor of an office building that has building security at the ground level and a security door when stepping off an elevator may be considered a nonpublic place.

However, if employers regularly allow members of the public to enter and roam around areas that would otherwise be nonpublic, those areas may be considered public based on their usage.

Once it is determined whether an area of the workplace is public or nonpublic, employers should assess whether ICE has proper legal authority to enter or search.

As to nonpublic areas of the workplace, ICE can generally gain access in one of three ways: (1) in exigent circumstances, (2) if given consent or (3) with a warrant. Said another way, in the absence of a warrant, ICE can only enter nonpublic areas of the workplace if given consent or in the case of an emergency.

### ***Exigent Circumstances***

ICE is allowed to enter nonpublic areas of the workplace without a warrant if it is necessary to prevent bodily harm or the destruction of evidence, or to chase an escaping suspect.

ICE is also generally allowed to enter without a warrant in the event of an ongoing and immediate emergency, such as an encroaching fire or a mass shooter situation.

### ***Consent***

ICE can enter nonpublic areas of the workplace without a warrant if given consent by any employee.

ICE does not need to obtain consent from, for instance, an executive director or general manager before entering. If the receptionist or another employee who happens to be walking by gives consent, that may suffice.

This means that all employees should be informed of, and trained on, the company's policies with respect to giving voluntary consent to law enforcement and ICE to enter or search the workplace.

Employers should also be aware of their obligations under the California Immigrant Worker Protection Act, which went into effect in 2018.[4]

The act prohibits employers, or someone acting on behalf of an employer, from giving voluntary consent to immigration enforcement agents to enter or search nonpublic areas of the workplace, or from accessing, reviewing or seizing employee personnel records without a warrant.

The act applies to both public and private sector employers. It imposes civil penalties of between \$2,000 and \$5,000 for an initial violation, and \$5,000 to \$10,000 for each subsequent violation.

### ***Warrants***

Without exigent circumstances or consent, ICE may only enter nonpublic areas of the

workplace with a warrant.

Warrants come in a variety of different forms, including administrative versus judicial, and search versus arrest.

An arrest warrant gives law enforcement, including ICE, valid legal authority to arrest a specific person. The warrant must be issued by a court, and signed by a judge or magistrate.

A search warrant gives law enforcement, including ICE, the authority to enter a specifically designated nonpublic place, and inspect or search for specifically designated things. It must also be issued by a court, and signed by a judge or magistrate.

An administrative warrant, also known as an ICE warrant, gives ICE agents the authority to arrest a specifically identified person for civil immigration purposes.

Administrative warrants are issued by the U.S. Department of Homeland Security, and do not need to be signed by a judge or magistrate; they are often signed by an immigration officer.

Unlike judicial warrants, i.e., search and arrest, administrative warrants do not give ICE the legal authority to enter or search nonpublic areas of the workplace.

### **What if ICE or another government agency requests access to employment records?**

The California Immigrant Worker Protection Act also imposes obligations on employers in responding to employee records requests.

Specifically, the act requires all employers to provide direct notice to employees within 72 hours of receiving any request or notice of inspections of I-9 employment eligibility verification forms, or other employment records, from a government agency.

The notice must include the name of the agency conducting the inspection, the date that the employer received notice of the inspection and the nature of the inspection to the extent known. Employers also must provide affected employees with a copy of the notice of inspection.

After the inspection, employers must provide affected employees notice of the results within 72 hours of receipt from the immigration agency. Delivery of the results notice must be attempted by hand; mail or email delivery is only permitted where hand delivery is not possible.

The results notice must contain a description of the deficiencies or other items identified in the inspection results, the time period for correcting any potential deficiencies, the time and date of any meeting with the employer to correct the deficiencies, and notice that the employee has the right to representation during any employer meeting.

### **How should employers direct the workforce in the event of an ICE raid at the workplace?**

The most critical aspect of preparing for possible ICE presence in the workplace is setting protocols and educating relevant personnel about the same. Employers should take the

following practical steps.

***Secure nonpublic areas.***

Post signage on doors to the nonpublic areas of the workplace, e.g., "Authorized Personnel Only," and restrict access with badged entry systems where possible. Additionally, keep certain doors locked at all times, while keeping in mind fire and other safety standards.

***Create a notification plan.***

Include directions about closing access points, information on who will interact with ICE agents, who must be notified of their presence and who has decision-making authority.

***Create an engagement plan.***

Designate who is authorized to speak to ICE agents, evaluate a warrant presented or give consent; train staff on how to manage clients, customers, vendors or other visitors that might be on-site; and provide direction on opening locked doors or gates.

***Create a follow-up plan.***

Establish processes for documenting the interaction and for managing employee reactions.

**What do public agencies and healthcare employers need to consider?**

Employers in the healthcare industry will need to consider additional nuances related to patient care and patient privacy rights.

For instance, if ICE is on the premises looking for a patient rather than an employee, an employer could potentially violate the Health Insurance Portability and Accountability Act by simply confirming that the patient receives treatment at the location.

Similarly, public agencies will need to consider whether their workplace is on government property or is entirely considered to be a public place.

It is even more imperative that employers in these industries prepare a notification and interaction plan for ICE presence at the workplace.

**Conclusion**

Employers must comply with law enforcement and ICE searches and audit requests, if there are proper legal grounds.

However, the California Immigrant Worker Protection Act prohibits employers from voluntarily consenting to searches and audits where no such proper legal grounds exist.

Since interactions with law enforcement and ICE are often high-tension, it is crucial for employers and employees to be prepared in advance through a thorough ICE response plan and training.

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*Jennifer Martinez is a partner and Brenda Quintanilla is an associate at Hanson Bridgett LLP.*

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[1] <https://www.cbsnews.com/news/ice-arrests-under-trump-100k/>.

[2] <https://nymag.com/intelligencer/article/trump-ice-detained-citizenship-proof.html>.

[3] <https://www.cnn.com/2025/06/10/trump-la-marines-protests-guard.html>.

[4] [https://www.dir.ca.gov/dlse/AB\\_450\\_QA.pdf](https://www.dir.ca.gov/dlse/AB_450_QA.pdf).