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RLG Handout: How to Handle ICE Agents at Your Business

With the recent uptick in Immigration and Customs Enforcement (“ICE”) activity in Minnesota and across the country, it is more important than ever for employers to know what to do if ICE comes knocking. Here’s how businesses can exercise their rights to minimize disruption to their business operations and protect their employees and customers from intimidation, harassment, or arrest.

Proactive Steps Employers Can Take

1. **Reduce the Risk of Encountering ICE by Ensuring I-9 Compliance.**
 - Employers should ensure that all employees have properly completed I-9s on file.
 - Review I-9 records periodically to identify and correct discrepancies.
 - Train HR staff, managers, and other employees who complete I-9 forms to identify potential issues and handle situations involving potential unauthorized workers.
 - Consider using E-Verify. This won’t eliminate the possibility of ICE raids, but it will reduce your chances.

2. **Train Staff on How to Deal with ICE and Other Law Enforcement Officers.**
 - Have a designated representative who is knowledgeable about employers’ rights to serve as the point of contact with law enforcement until legal counsel is contacted.
 - Create and clearly mark private spaces in the workplace. ICE agents can enter any part of your business that is open to the public without a warrant, but they need a warrant to access employee-only or private spaces.
 - Advise all staff on their right to remain silent. They do not need to answer questions from law enforcement officers.
 - Tell staff not to allow agents in any non-public spaces without a warrant.
 - Train your employees on these questions:
 - What is the difference between a private and public area in your workplace?
 - What are the employee’s rights?
 - Who can employees talk to if something happens at their home?
 - Create a plan of what to do if ICE shows up and share it with all employees.
 - Who is responsible for communicating with ICE? Checking the warrant? Calling legal counsel? Monitoring agents? Documenting the encounter?

What to Do When ICE Shows Up

1. Stay Calm and Professional.

- Employees should not run or be confrontational with ICE agents.
- Ask if they are ICE, some other agency, or police.
- Do not consent to a search without a warrant signed by a judge.
- Verify the signature and scope of any warrant. Take a picture. Ask them to sit tight while you call your lawyer.
- State your policy on police searches. Example: “You can search public areas of the facility, but you need a warrant for private areas.”

2. Cooperate to the Extent the Warrant Requires You to.

- If they present a warrant, have the designated representative review to ensure it’s signed by a federal judge or magistrate, has the address of the business’ premises, and provides both a temporal scope and scope of what the search will entail.
 - You MUST comply with a valid judicial warrant.
 - ICE sometimes uses administrative warrants, issued by DHS/ICE on Forms I-200 or I-205. These warrants are not legally valid search warrants, but they do allow the agent to arrest the person named in the warrant. That does not mean that employers are required to bring the agent to the person or tell the agent whether that person is working that day.
- If the warrant is valid, designate an employee to accompany them on their search.
- Do not hide other employees, destroy documents, or provide false information.

3. Document Everything.

- This includes names and badge numbers of the agents, how many agents there were, whether local law enforcement accompanied them, and how the agents were dressed. Also note whether the agents made you or your employees believe they could not move or leave.
 - Should agents arrest any of your employees, ask them where the employee is being taken.
- Record and monitor agents’ activities but do not interfere or obstruct.
- ICE agents may seize certain documents described in the warrant. Keep track of everything that was seized. Make sure you have copies of each document.
- Maintain a list of employees who were there at the time of the raid.

Understanding the Different Types of Documents That May Be Presented

If ICE or a different government agent comes to your workplace it’s helpful to have a general understanding of what the various types of documents presented (Judicial Warrant vs. Administrative Warrant vs. Notice of Inspection/Subpoena) may look like:

2. Administrative Warrant

U.S. Department of Justice
Immigration and Naturalization Service

Warrant of Removal/Deportation

File No: _____
Date: _____

To any officer of the United States Immigration and Naturalization Service:

_____ (Full name of alien)

who entered the United States at _____ on _____
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

an Immigration judge in exclusion, deportation, or removal proceedings
 a district director or a district director's designated official
 the Board of Immigration Appeals
 a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:
Section 241(a)(5) of the Immigration and Nationality Act(Act), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of the appropriation. "Salaries and Expenses Immigration and Naturalization Service 2002," including the expense of an attendant if necessary.

(Signature of INS official)

Title of INS official

(Date and office location)

Form I-205 (Rev. 4-1-97)H

An administrative warrant is issued by a federal agency such as DHS) or ICE. These administrative documents are not signed by a District Court Judge or Magistrate Judge but rather an immigration officer like an ICE agent or immigration judge.

An ICE administrative warrant is NOT a judicial warrant. ICE administrative warrants do not give ICE officials authority to enter a place where there is a reasonable expectation of privacy, without consent.

3. Notice of Inspection

A Notice of Inspection (sometimes accompanied by a subpoena) is the initiating document for DHS, DOL, or IER to begin an I-9 audit involving the employer's current and former employees. Employers typically receive at least three business days to produce the information requested in the Notice of Inspection. In addition, to requesting Form I-9s retained for current and former employees, other documents that can be requested via the Notice of Inspection include:

- Photocopies taken of documents presented in order to complete the I-9;

- Payroll information, including the name, social security number, wages, and hours worked by employees within a timeframe specified in the Notice of Inspection;
- Copies of the employer's quarterly tax statements;
- List of federal contracts held by the employer;
- A list of the employer's owner(s), shareholders, and executives;
- A copy of the employer's Articles of Incorporation;
- A list of parent companies and/or subsidiaries of the employer
- The employer's Tax Identification number; and/or
- A list of subcontractors or temporary employment agencies used by the employer.

Key Information to Give Your Employees

- They have the right to protect themselves at work and at home.
- They don't have to open the door without a valid warrant.
- They can ask them to slip the warrant under the door or show it through a window.
- Doing nothing is not helpful. They're knocking because they know you're there.
- They don't have to disclose personal information. "I choose to remain silent." is a valid response.
- To the extent that they do disclose information, remind them to be truthful.
- They have the right to an attorney.
- They have the right to a phone call after 10 days of detention.
- They can ask for ICE's detainee handbook.
- Consider creating a document for your employees about what their rights are.

These are fast-moving times, and the information provided is only current as of today's date (March 17, 2025). The information provided does not, and is not intended to, constitute legal advice; instead, all information is prepared and provided for general informational purposes only.

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